SENATE
STATE OF MINNESOTA
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S.F. No. 2902

(SENATE AUTHORS: RELPH, Klein and Utke)

DATE	D-PG	OFFICIAL STATUS
05/17/2019	4348	Introduction and first reading Referred to Judiciary and Public Safety Finance and Policy

A bill for an act

relating to civil commitment; modifying provisions governing civil commitment; establishing engagement services pilot project; appropriating money; amending Minnesota Statutes 2018, sections 253B.02, subdivisions 4b, 7, 8, 9, 10, 12a, 13, 16, 17, 18, 19, 21, 22, 23, by adding subdivisions; 253B.03, subdivisions 1, 2, 3, 4a, 5, 6, 6b, 6d, 7, 10; 253B.04, subdivisions 1, 1a, 2; 253B.045, subdivisions 2, 3, 5, 6; 253B.06, subdivisions 1, 2, 3; 253B.07, subdivisions 1, 2, 2b, 2d, 3, 4, 5, 7; 253B.08, subdivisions 1, 2a, 5, 5a; 253B.09, subdivisions 1, 2, 3a, 5; 253B.092; 253B.0921; 253B.095, subdivision 3; 253B.097, subdivisions 1, 2, 3, 6; 253B.10; 253B.12, subdivisions 1, 2, 3, 4, 7; 253B.13, subdivision 1; 253B.14; 253B.141; 253B.15, subdivisions 1, 1a, 2, 3, 3a, 3b, 3c, 5, 7, 9, 10, by adding a subdivision; 253B.16; 253B.17; 253B.18, subdivisions 1, 2, 3, 4a, 4b, 4c, 5, 5a, 6, 7, 8, 10, 11, 12, 14, 15; 253B.19, subdivision 2; 253B.20, subdivisions 1, 2, 3, 4, 6; 253B.21, subdivisions 1, 2, 3; 253B.212, subdivisions 1, 1a, 1b, 2; 253B.22, subdivisions 1, 2, 3, 4; 253B.23, subdivisions 1, 1b, 2; 253B.24; 253D.02, subdivision 6; 253D.07, subdivision 2; 253D.10, subdivision 2; 253D.21; 253D.28, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 253B; repealing Minnesota Statutes 2018, sections 253B.02, subdivision 6; 253B.05, subdivisions 1, 2, 2b, 3, 4; 253B.064; 253B.065; 253B.066; 253B.09, subdivision 3; 253B.15, subdivision 11; 253B.20, subdivision 7.

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

Section 1. Minnesota Statutes 2018, section 253B.02, subdivision 4b, is amended to read:

Subd. 4b. **Community-based treatment program.** "Community-based treatment program" means treatment and services provided at the community level, including but not limited to community support services programs defined in section 245.462, subdivision 6; day treatment services defined in section 245.462, subdivision 8; outpatient services defined in section 245.462, subdivision 21; mental health crisis services under section 245.462, subdivision 14c; outpatient services defined in section 245.462, subdivision 21; assertive community treatment services under section 256B.0622; adult rehabilitation mental health services under section 256B.0623; home and community-based waivers, supportive housing,

and residential treatment services as defined in section 245.462, subdivision 23. Community-based treatment program excludes services provided by a state-operated treatment program.

Sec. 2. Minnesota Statutes 2018, section 253B.02, subdivision 7, is amended to read:

Subd. 7. **Examiner.** "Examiner" means a person who is knowledgeable, trained, and practicing in the diagnosis and assessment or in the treatment of the alleged impairment, and who is:

(1) a court examiner; or

(2) a licensed physician~~;~~

~~(2) a licensed psychologist who has a doctoral degree in psychology or who became a licensed consulting psychologist before July 2, 1975; or~~

~~(3) an advanced practice registered nurse certified in mental health~~, a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (6), or a licensed physician assistant~~, except that only a physician or psychologist meeting these requirements may be appointed by the court as described by sections 253B.07, subdivision 3; 253B.092, subdivision 8, paragraph (b); 253B.17, subdivision 3; 253B.18, subdivision 2; and 253B.19, subdivisions 1 and 2, and only a physician or psychologist may conduct an assessment as described by Minnesota Rules of Criminal Procedure, rule 20~~.

Sec. 3. Minnesota Statutes 2018, section 253B.02, is amended by adding a subdivision to read:

Subd. 7a. **Court examiner.** "Court examiner" means a person who is knowledgeable, trained, and practicing in the diagnosis and assessment or in the treatment of the alleged impairment, and who is a physician or licensed psychologist who has a doctoral degree in psychology. Only a court examiner may conduct an assessment as described in Minnesota Rules of Criminal Procedure, rules 20.01, subdivision 4, and 20.02, subdivision 2. Court examiner includes a court-appointed examiner.

Sec. 4. Minnesota Statutes 2018, section 253B.02, subdivision 8, is amended to read:

Subd. 8. **Head of the ~~treatment~~ facility or program.** "Head of the ~~treatment~~ facility or program" means the person who is charged with overall responsibility for the professional program of care and treatment of the ~~facility or the person's designee~~ treatment facility, state-operated program, or community-based treatment program.

Sec. 5. Minnesota Statutes 2018, section 253B.02, subdivision 9, is amended to read:

Subd. 9. **Health officer.** "Health officer" means:

(1) a licensed physician;

(2) ~~a licensed psychologist~~ a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (6);

~~(3) a licensed social worker;~~

~~(4)~~ (3) a registered nurse working in an emergency room of a hospital;

~~(5)~~ (4) a psychiatric ~~or public health nurse as defined in section 145A.02, subdivision 18~~ mental health nurse;

~~(6)~~ (5) an advanced practice registered nurse (APRN) as defined in section 148.171, subdivision 3; or

~~(7)~~ (6) a mental health ~~professional~~ practitioner as defined in section 245.462, subdivision 17, providing mental health mobile crisis intervention services as described under section 256B.0624~~; or~~ with the consultation and approval by a mental health professional.

~~(8) a formally designated member of a prepetition screening unit established by section 253B.07.~~

Sec. 6. Minnesota Statutes 2018, section 253B.02, subdivision 10, is amended to read:

Subd. 10. **Interested person.** "Interested person" means:

(1) an adult who has a specific interest in the patient or proposed patient, including but not limited to~~,~~ a public official, including a local welfare agency acting under section 626.5561~~, and~~; a health care or mental health provider or the provider's employee or agent; the legal guardian, spouse, parent, legal counsel, adult child, or next of kin~~,~~; or other person designated by a patient or proposed patient; or

(2) a health plan company that is providing coverage for a proposed patient.

Sec. 7. Minnesota Statutes 2018, section 253B.02, subdivision 12a, is amended to read:

Subd. 12a. **Mental illness.** (a) "Mental illness" has the meaning given in section 245.462, subdivision 20. Except as provided in paragraph (b), "mental illness" has the meaning given in section 245.462, subdivision 20.

(b) For purposes of civil commitment including subdivisions 13 and 17, "mental illness" means an organic disorder of the brain or a substantial psychiatric disorder of thought, mood,

perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand, and that is manifested by instances of grossly disturbed behavior or faulty perceptions under this paragraph. Mental illness does not include a condition that is solely due to: (1) epilepsy; (2) a developmental disability; (3) brief periods of intoxication caused by alcohol, drugs, or other mind-altering substances; or (4) dependence upon or addiction to any alcohol, drug, or other mind-altering substance.

Sec. 8. Minnesota Statutes 2018, section 253B.02, subdivision 13, is amended to read:

Subd. 13. **Person ~~who is mentally ill~~ posing a risk of harm due to mental illness.** ~~(a)~~ A "person ~~who is mentally ill~~ posing a risk of harm due to mental illness" means any person who has ~~an organic disorder of the brain or a substantial psychiatric disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand, which is manifested by instances of grossly disturbed behavior or faulty perceptions and~~ a mental illness and, due to the mental illness, poses a substantial likelihood of physical harm to self or others as demonstrated by:

(1) a failure to obtain necessary food, clothing, shelter, or medical care as a result of the impairment;

(2) an inability for reasons other than indigence to obtain necessary food, clothing, shelter, or medical care as a result of the impairment and it is more probable than not that the person will suffer substantial harm, significant psychiatric deterioration or debilitation, or serious illness, unless appropriate treatment and services are provided;

(3) a recent attempt or threat to physically harm self or others; or

(4) recent and volitional conduct involving significant damage to substantial property.

~~(b) A person is not mentally ill under this section if the impairment is solely due to:~~

~~(1) epilepsy;~~

~~(2) developmental disability;~~

~~(3) brief periods of intoxication caused by alcohol, drugs, or other mind-altering substances; or~~

~~(4) dependence upon or addiction to any alcohol, drugs, or other mind-altering substances.~~

Sec. 9. Minnesota Statutes 2018, section 253B.02, subdivision 16, is amended to read:

Subd. 16. **Peace officer.** "Peace officer" means a sheriff or deputy sheriff, or municipal or other local police officer, or a State Patrol officer when engaged in the authorized duties of office.

Sec. 10. Minnesota Statutes 2018, section 253B.02, subdivision 17, is amended to read:

Subd. 17. **Person who ~~is mentally ill~~ has a mental illness and is dangerous to the public.** ~~(a)~~ A "person who ~~is mentally ill~~ has a mental illness and is dangerous to the public" is a person:

(1) who ~~is mentally ill~~ has a mental illness; and

(2) who as a result of that mental illness presents a clear danger to the safety of others as demonstrated by the facts that (i) the person has engaged in an overt act causing or attempting to cause serious physical harm to another and (ii) there is a substantial likelihood that the person will engage in acts capable of inflicting serious physical harm on another.

~~(b) A person committed as a sexual psychopathic personality or sexually dangerous person as defined in subdivisions 18a and 18b is subject to the provisions of this chapter that apply to persons who are mentally ill and dangerous to the public.~~

Sec. 11. Minnesota Statutes 2018, section 253B.02, subdivision 18, is amended to read:

Subd. 18. **~~Regional~~ State-operated treatment ~~center~~ program.** "~~Regional~~ State-operated treatment ~~center~~ program" ~~means any state-operated facility for persons who are mentally ill, developmentally disabled, or chemically dependent under the direct administrative authority of the commissioner~~ means any state-operated program including community behavioral health hospitals, crisis centers, residential facilities, outpatient services, and other community-based services developed and operated by the state and under the commissioner's control for a person who has a mental illness, developmental disability, or chemical dependency.

Sec. 12. Minnesota Statutes 2018, section 253B.02, subdivision 19, is amended to read:

Subd. 19. **Treatment facility.** "Treatment facility" means a non-state-operated hospital, ~~community mental health center, or other treatment provider~~ residential treatment provider, crisis residential, or corporate foster care home qualified to provide care and treatment for persons ~~who are mentally ill, developmentally disabled, or chemically dependent~~ who have a mental illness, developmental disability, or chemical dependency.

Sec. 13. Minnesota Statutes 2018, section 253B.02, subdivision 21, is amended to read:

Subd. 21. **Pass.** "Pass" means any authorized temporary, unsupervised absence from a state-operated treatment ~~facility~~ program.

Sec. 14. Minnesota Statutes 2018, section 253B.02, subdivision 22, is amended to read:

Subd. 22. **Pass plan.** "Pass plan" means the part of a treatment plan for a ~~person~~ patient who has been committed as ~~mentally ill and~~ a person who has a mental illness and is dangerous that specifies the terms and conditions under which the patient may be released on a pass.

Sec. 15. Minnesota Statutes 2018, section 253B.02, subdivision 23, is amended to read:

Subd. 23. **Pass-eligible status.** "Pass-eligible status" means the status under which a ~~person~~ patient committed as ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public may be released on passes after approval of a pass plan by the head of a state-operated treatment ~~facility~~ program.

Sec. 16. Minnesota Statutes 2018, section 253B.02, is amended by adding a subdivision to read:

Subd. 27. **Psychotropic medication.** "Psychotropic medication" means antipsychotic medication, mood stabilizing medication, antidepressants, and anxiolytics.

Sec. 17. Minnesota Statutes 2018, section 253B.03, subdivision 1, is amended to read:

Subdivision 1. **Restraints.** (a) A patient has the right to be free from restraints. Restraints shall not be applied to a patient in a treatment facility or state-operated treatment program unless the head of the treatment facility, head of the state-operated treatment program, a member of the medical staff, or a licensed peace officer who has custody of the patient determines that ~~they~~ restraints are necessary for the safety of the patient or others.

(b) Restraints shall not be applied to patients with developmental disabilities except as permitted under section 245.825 and rules of the commissioner of human services. Consent must be obtained from the ~~person~~ patient or ~~person's~~ patient's guardian except for emergency procedures as permitted under rules of the commissioner adopted under section 245.825.

(c) Each use of a restraint and reason for it shall be made part of the clinical record of the patient under the signature of the head of the treatment facility.

Sec. 18. Minnesota Statutes 2018, section 253B.03, subdivision 2, is amended to read:

Subd. 2. **Correspondence.** A patient has the right to correspond freely without censorship. The head of the treatment facility or head of the state-operated treatment program may restrict correspondence if the patient's medical welfare requires this restriction. For ~~patients~~ a patient in ~~regional~~ a state-operated treatment ~~centers~~ program, that determination may be reviewed by the commissioner. Any limitation imposed on the exercise of a patient's correspondence rights and the reason for it shall be made a part of the clinical record of the patient. Any communication which is not delivered to a patient shall be immediately returned to the sender.

Sec. 19. Minnesota Statutes 2018, section 253B.03, subdivision 3, is amended to read:

Subd. 3. **Visitors and phone calls.** Subject to the general rules of the treatment facility or state-operated treatment program, a patient has the right to receive visitors and make phone calls. The head of the treatment facility or head of the state-operated treatment program 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.

Sec. 20. Minnesota Statutes 2018, section 253B.03, subdivision 4a, is amended to read:

Subd. 4a. **Disclosure of patient's admission.** Upon admission to a treatment facility or state-operated treatment program where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors, the patient or resident, or the legal guardian 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 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.

Sec. 21. Minnesota Statutes 2018, section 253B.03, subdivision 5, is amended to read:

Subd. 5. **Periodic assessment.** A patient has the right to periodic medical assessment, including assessment of the medical necessity of continuing care and, if the ~~treatment~~ facility or program provider declines to provide continuing care, the right to receive specific written reasons why continuing care is declined at the time of the assessment. The ~~treatment~~ facility or program shall assess the physical and mental condition of every patient as frequently as necessary, but not less often than annually. If the patient refuses to be examined, the facility

or program shall document in the patient's chart its attempts to examine the patient. If a ~~person~~ patient is committed as developmentally disabled for an indeterminate period of time, the three-year judicial review must include the annual reviews for each year as outlined in Minnesota Rules, part 9525.0075, subpart 6.

Sec. 22. Minnesota Statutes 2018, section 253B.03, subdivision 6, is amended to read:

Subd. 6. **Consent for medical procedure.** (a) A patient has the right to prior consent to any medical or surgical treatment, other than treatment for chemical dependency or nonintrusive treatment for mental illness.

(b) The following procedures shall be used to obtain consent for any treatment necessary to preserve the life or health of any committed patient:

~~(a)~~ (1) the written, informed consent of a competent adult patient for the treatment is sufficient~~.~~;

~~(b)~~ (2) if the patient is subject to guardianship which includes the provision of medical care, the written, informed consent of the guardian for the treatment is sufficient~~.~~;

~~(c)~~ (3) if the head of the ~~treatment~~ facility or program determines that the patient is not competent to consent to the treatment and the patient has not been adjudicated incompetent, written, informed consent for the surgery or medical treatment shall be obtained from the nearest proper relative. For this purpose, the following persons are proper relatives, in the order listed: the patient's spouse, parent, adult child, or adult sibling. If the nearest proper relatives cannot be located, refuse to consent to the procedure, or are unable to consent, the head of the ~~treatment~~ facility or program or an interested person may petition the committing court for approval for the treatment or may petition a court of competent jurisdiction for the appointment of a guardian. The determination that the patient is not competent, and the reasons for the determination, shall be documented in the patient's clinical record~~.~~;

~~(d)~~ (4) consent to treatment of any minor patient shall be secured in accordance with sections 144.341 to 144.346. A minor 16 years of age or older may consent to hospitalization, routine diagnostic evaluation, and emergency or short-term acute care~~.~~; and

~~(e)~~ (5) in the case of an emergency when the persons ordinarily qualified to give consent cannot be located in sufficient time to address the emergency need, the head of the ~~treatment~~ facility or program may give consent.

(c) No person who consents to treatment pursuant to the provisions of this subdivision shall be civilly or criminally liable for the performance or the manner of performing the treatment. No person shall be liable for performing treatment without consent if written,

informed consent was given pursuant to this subdivision. This provision shall not affect any other liability which may result from the manner in which the treatment is performed.

Sec. 23. Minnesota Statutes 2018, section 253B.03, subdivision 6b, is amended to read:

Subd. 6b. **Consent for mental health treatment.** A competent ~~person~~ patient admitted voluntarily to a treatment facility or state-operated treatment program may be subjected to intrusive mental health treatment only with the ~~person's~~ patient's written informed consent. For purposes of this section, "intrusive mental health treatment" means ~~electroshock~~ electroconvulsive therapy and ~~neuroleptic~~ psychotropic medication and does not include treatment for a developmental disability. An incompetent ~~person~~ patient who has prepared a directive under subdivision 6d regarding intrusive mental health treatment ~~with intrusive therapies~~ must be treated in accordance with this section, except in cases of emergencies.

Sec. 24. Minnesota Statutes 2018, section 253B.03, subdivision 6d, is amended to read:

Subd. 6d. **Adult mental health treatment.** (a) A competent ~~adult~~ patient may make a declaration of preferences or instructions regarding intrusive mental health treatment. These preferences or instructions may include, but are not limited to, consent to or refusal of these treatments. A declaration of preferences or instructions may include a health care directive under chapter 145C or a psychiatric directive.

(b) A declaration may designate a proxy to make decisions about intrusive mental health treatment. A proxy designated to make decisions about intrusive mental health treatments and who agrees to serve as proxy may make decisions on behalf of a declarant consistent with any desires the declarant expresses in the declaration.

(c) A declaration is effective only if it is signed by the declarant and two witnesses. The witnesses must include a statement that they believe the declarant understands the nature and significance of the declaration. A declaration becomes operative when it is delivered to the declarant's physician or other mental health treatment provider. The physician or provider must comply with ~~it~~ the declaration to the fullest extent possible, consistent with reasonable medical practice, the availability of treatments requested, and applicable law. The physician or provider shall continue to obtain the declarant's informed consent to all intrusive mental health treatment decisions if the declarant is capable of informed consent. A treatment provider ~~may~~ must not require a ~~person~~ patient to make a declaration under this subdivision as a condition of receiving services.

(d) The physician or other provider shall make the declaration a part of the declarant's medical record. If the physician or other provider is unwilling at any time to comply with

the declaration, the physician or provider must promptly notify the declarant and document the notification in the declarant's medical record. ~~If the declarant has been committed as a patient under this chapter, the physician or provider may subject a declarant to intrusive treatment in a manner contrary to the declarant's expressed wishes, only upon order of the committing court. If the declarant is not a committed patient under this chapter,~~ The physician or provider may subject the declarant to intrusive treatment in a manner contrary to the declarant's expressed wishes, only if the declarant is committed as ~~mentally ill~~ a person posing a risk of harm due to mental illness or ~~mentally ill~~ a person who has a mental illness and is dangerous to the public and a court order authorizing the treatment has been issued.

(e) A declaration under this subdivision may be revoked in whole or in part at any time and in any manner by the declarant if the declarant is competent at the time of revocation. A revocation is effective when a competent declarant communicates the revocation to the attending physician or other provider. The attending physician or other provider shall note the revocation as part of the declarant's medical record.

(f) A provider who administers intrusive mental health treatment according to and in good faith reliance upon the validity of a declaration under this subdivision is held harmless from any liability resulting from a subsequent finding of invalidity.

(g) In addition to making a declaration under this subdivision, a competent adult may delegate parental powers under section 524.5-211 or may nominate a guardian under sections 524.5-101 to 524.5-502.

Sec. 25. Minnesota Statutes 2018, section 253B.03, subdivision 7, is amended to read:

Subd. 7. **~~Program~~ Treatment plan.** A ~~person~~ patient receiving services under this chapter has the right to receive proper care and treatment, best adapted, according to contemporary professional standards, to rendering further supervision unnecessary. The treatment facility, state-operated treatment program, or community-based treatment program shall devise a written ~~program~~ treatment plan for each ~~person~~ patient which describes in behavioral terms the case problems, the precise goals, including the expected period of time for treatment, and the specific measures to be employed. ~~Each plan shall be reviewed at least quarterly to determine progress toward the goals, and to modify the program plan as necessary.~~ The development and review of treatment plans must be conducted as required under the license or certification of the facility or program. If there are no review requirements under the license or certification, the treatment plan must be reviewed quarterly. The ~~program~~ treatment plan shall be devised and reviewed with the designated agency and with the patient. The clinical record shall reflect the ~~program~~ treatment plan review. If the

designated agency or the patient does not participate in the planning and review, the clinical record shall include reasons for nonparticipation and the plans for future involvement. The commissioner shall monitor the ~~program~~ treatment plan and review process for ~~regional centers~~ state-operated treatment programs to ~~insure~~ ensure compliance with the provisions of this subdivision.

Sec. 26. Minnesota Statutes 2018, section 253B.03, subdivision 10, is amended to read:

Subd. 10. **Notification.** (a) All ~~persons~~ patients admitted or committed to a treatment facility or state-operated treatment program, or temporarily confined under section 253B.045, shall be notified in writing of their rights regarding hospitalization and other treatment ~~at the time of admission~~.

(b) This notification must include:

(1) patient rights specified in this section and section 144.651, including nursing home discharge rights;

(2) the right to obtain treatment and services voluntarily under this chapter;

(3) the right to voluntary admission and release under section 253B.04;

(4) rights in case of an emergency admission under section ~~253B.05~~ 253B.051, including the right to documentation in support of an emergency hold and the right to a summary hearing before a judge if the patient believes an emergency hold is improper;

(5) the right to request expedited review under section 62M.05 if additional days of inpatient stay are denied;

(6) the right to continuing benefits pending appeal and to an expedited administrative hearing under section 256.045 if the patient is a recipient of medical assistance or MinnesotaCare; and

(7) the right to an external appeal process under section 62Q.73, including the right to a second opinion.

Sec. 27. Minnesota Statutes 2018, section 253B.04, subdivision 1, is amended to read:

Subdivision 1. **Voluntary admission and treatment.** (a) Voluntary admission is preferred over involuntary commitment and treatment. Any person 16 years of age or older may request to be admitted to a treatment facility or state-operated treatment program as a voluntary patient for observation, evaluation, diagnosis, care and treatment without making formal written application. Any person under the age of 16 years may be admitted as a

patient with the consent of a parent or legal guardian if it is determined by independent examination that there is reasonable evidence that (1) the proposed patient has a mental illness, ~~or is developmentally disabled~~ developmental disability, or ~~chemically dependent~~ chemical dependency; and (2) the proposed patient is suitable for treatment. The head of the treatment facility or head of the state-operated treatment program shall not arbitrarily refuse any person seeking admission as a voluntary patient. In making decisions regarding admissions, the treatment facility or state-operated treatment program shall use clinical admission criteria consistent with the current applicable inpatient admission standards established by professional organizations including the American Psychiatric Association ~~or~~, the American Academy of Child and Adolescent Psychiatry, the Joint Commission, and the American Society of Addiction Medicine. These criteria must be no more restrictive than, and must be consistent with, the requirements of section 62Q.53. The treatment facility or head of the state-operated treatment program may not refuse to admit a person voluntarily solely because the person does not meet the criteria for involuntary holds under section ~~253B.05~~ 253B.051 or the definition of a person posing a risk of harm due to mental illness under section 253B.02, subdivision 13.

(b) In addition to the consent provisions of paragraph (a), a person who is 16 or 17 years of age who refuses to consent personally to admission may be admitted as a patient for mental illness or chemical dependency treatment with the consent of a parent or legal guardian if it is determined by an independent examination that there is reasonable evidence that the proposed patient is chemically dependent or has a mental illness and is suitable for treatment. The person conducting the examination shall notify the proposed patient and the parent or legal guardian of this determination.

(c) A person who is voluntarily participating in treatment for a mental illness is not subject to civil commitment under this chapter if the person:

(1) has given informed consent or, if lacking capacity, is a person for whom legally valid substitute consent has been given; and

(2) is participating in a medically appropriate course of treatment, including clinically appropriate and lawful use of ~~neuroleptic~~ psychotropic medication and electroconvulsive therapy. The limitation on commitment in this paragraph does not apply if, based on clinical assessment, the court finds that it is unlikely that the ~~person~~ patient will remain in and cooperate with a medically appropriate course of treatment absent commitment and the standards for commitment are otherwise met. This paragraph does not apply to a person for whom commitment proceedings are initiated pursuant to rule 20.01 or 20.02 of the Rules

of Criminal Procedure, or a person found by the court to meet the requirements under section 253B.02, subdivision 17.

(d) Legally valid substitute consent may be provided by a proxy under a health care directive, a guardian or conservator with authority to consent to mental health treatment, or consent to admission under subdivision 1a or 1b.

Sec. 28. Minnesota Statutes 2018, section 253B.04, subdivision 1a, is amended to read:

Subd. 1a. **Voluntary treatment or admission for persons with a mental illness.** (a) A person with a mental illness may seek or voluntarily agree to accept treatment or admission to a state-operated treatment program or facility. If the mental health provider determines that the person lacks the capacity to give informed consent for the treatment or admission, and in the absence of a health care ~~power of attorney~~ directive that authorizes consent, the designated agency or its designee may give informed consent for mental health treatment or admission to ~~a treatment~~ the facility or state-operated treatment program on behalf of the person.

(b) The designated agency shall apply the following criteria in determining the person's ability to give informed consent:

(1) whether the person demonstrates an awareness of the person's illness, and the reasons for treatment, its risks, benefits and alternatives, and the possible consequences of refusing treatment; and

(2) whether the person communicates verbally or nonverbally a clear choice concerning treatment that is a reasoned one, not based on delusion, even though it may not be in the person's best interests.

(c) The basis for the designated agency's decision that the person lacks the capacity to give informed consent for treatment or admission, and that the patient has voluntarily accepted treatment or admission, must be documented in writing.

(d) A ~~mental health provider~~ treatment facility or state-operated treatment program that provides treatment in reliance on the written consent given by the designated agency under this subdivision or by a substitute decision maker appointed by the court is not civilly or criminally liable for performing treatment without consent. This paragraph does not affect any other liability that may result from the manner in which the treatment is performed.

(e) A ~~person~~ patient who receives treatment or is admitted to a treatment facility or state-operated treatment program under this subdivision or subdivision 1b has the right to refuse treatment at any time or to be released from a treatment facility or state-operated

treatment program as provided under subdivision 2. The ~~person~~ patient or any interested person acting on the ~~person's~~ patient's behalf may seek court review within five days for a determination of whether the ~~person's~~ patient's agreement to accept treatment or admission is voluntary. At the time a ~~person~~ patient agrees to treatment or admission to a treatment facility or state-operated treatment program under this subdivision, the designated agency or its designee shall inform the ~~person~~ patient in writing of the ~~person's~~ patient's rights under this paragraph.

(f) This subdivision does not authorize the administration of ~~neuroleptic~~ psychotropic medications. ~~Neuroleptic~~ Psychotropic medications may be administered only as provided in section 253B.092.

Sec. 29. Minnesota Statutes 2018, section 253B.04, subdivision 2, is amended to read:

Subd. 2. **Release.** Every patient admitted for mental illness or developmental disability under this section shall be informed in writing at the time of admission that the patient has a right to leave the treatment facility or state-operated treatment program within 12 hours of making a request, unless held under another provision of this chapter. Every patient admitted for chemical dependency under this section shall be informed in writing at the time of admission that the patient has a right to leave the treatment facility or state-operated treatment program within 72 hours, exclusive of Saturdays, Sundays, and legal holidays, of making a request, unless held under another provision of this chapter. The request shall be submitted in writing to the head of the ~~treatment~~ facility or program or the ~~person's~~ patient's designee.

Sec. 30. **[253B.041] SERVICES FOR ENGAGEMENT IN TREATMENT.**

Subdivision 1. **Eligibility.** (a) The purpose of engagement services is to avoid the need for commitment and to enable the proposed patient to engage in needed treatment voluntarily. An interested person may apply to the county where a proposed patient resides to request engagement services.

(b) To be eligible for engagement services, the proposed patient must be at least 18 years of age, have a mental illness, and either:

(1) be exhibiting symptoms of serious mental illness including hallucinations, mania, delusional thoughts, or inability to obtain necessary food, clothing, shelter, medical care, or provide necessary hygiene; or

(2) have a history of failing to adhere to treatment for mental illness, in that:

(i) the proposed patient's mental illness has, at least twice within the previous 36 months been a substantial factor in necessitating hospitalization, or incarceration in a state or local correctional facility, not including any period during which the person was hospitalized or incarcerated immediately preceding filing the application for engagement; or

(ii) the proposed patient received court-ordered mental health treatment, whether inpatient or outpatient, at least two times in the previous 36 months and the proposed patient is exhibiting symptoms or behavior substantially similar to those that precipitated a court-ordered treatment.

Subd. 2. **Administration.** (a) Upon receipt of a request for engagement services, the county's prepetition screening team shall conduct an investigation to determine whether the proposed patient is eligible. In making this determination, the screening team shall seek any relevant information from an interested person.

(b) If the screening team determines that the proposed patient is eligible, engagement services must begin and include, but are not limited to:

(1) assertive attempts to engage the patient in voluntary treatment for mental illness for at least 90 days. Engagement services must be person-centered and continue even if the patient is an inmate in a correctional facility;

(2) efforts to engage the patient's existing systems of support, including interested persons, unless the engagement provider determines that involvement is not helpful to the patient. This includes education on restricting means of harm, suicide prevention, and engagement; and

(3) collaboration with the patient to meet immediate needs including access to housing, food, income, disability verification, medications, and treatment for medical conditions.

(c) Engagement services regarding potential treatment options must take into account the patient's preferences for services and supports. The county may offer engagement services through the designated agency or another agency under contract. Engagement services staff must have training in person-centered care.

(d) If the patient voluntarily consents to receive mental health treatment, the engagement services staff must facilitate the referral to an appropriate mental health treatment provider including support obtaining health insurance if the proposed patient is currently or may become uninsured. If the proposed patient initially consents to treatment, but fails to initiate or continue treatment, the engagement services team must continue outreach efforts to the patient.

Subd. 3. **Commitment.** Engagement services for a patient to seek treatment may be stopped if the proposed patient is in need of commitment and satisfies the commitment criteria under section 253B.09, subdivision 1. In such a case, the engagement services team must immediately notify the designated agency, initiate the prepetition screening process under section 253B.07, or seek an emergency hold if necessary to ensure the safety of the patient or others.

Subd. 4. **Evaluation.** Counties may, but are not required to, provide engagement services. The commissioner shall conduct a pilot project evaluating the impact of engagement services in decreasing commitments, increasing engagement in treatment, and other measures.

Sec. 31. Minnesota Statutes 2018, section 253B.045, subdivision 2, is amended to read:

Subd. 2. **Facilities.** (a) Each county or a group of counties shall maintain or provide by contract a facility for confinement of persons held temporarily for observation, evaluation, diagnosis, treatment, and care. When the temporary confinement is provided at a ~~regional~~ state-operated treatment ~~center~~ program, the commissioner shall charge the county of financial responsibility for the costs of confinement of ~~persons~~ patients hospitalized under ~~section 253B.05, subdivisions 1 and 2,~~ sections 253B.051 and ~~section~~ 253B.07, subdivision 2b, except that the commissioner shall bill the responsible health plan first. Any charges not covered, including co-pays and deductibles shall be the responsibility of the county. If the ~~person~~ patient has health plan coverage, but the hospitalization does not meet the criteria in subdivision 6 or section 62M.07, 62Q.53, or 62Q.535, the county is responsible. When a person is temporarily confined in a Department of Corrections facility solely under section 253D.10, subdivision ~~1a~~ 2, and not based on any separate correctional authority:

(1) the commissioner of corrections may charge the county of financial responsibility for the costs of confinement; and

(2) the Department of Human Services shall use existing appropriations to fund all remaining nonconfinement costs. The funds received by the commissioner for the confinement and nonconfinement 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~~ patient 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. 32. Minnesota Statutes 2018, section 253B.045, subdivision 3, is amended to read:

Subd. 3. **Cost of care.** Notwithstanding subdivision 2, a county shall be responsible for the cost of care as specified under section 246.54 for ~~persons~~ patients hospitalized at a ~~regional~~ state-operated treatment ~~center~~ program in accordance with section 253B.09 and the ~~person's~~ patient's legal status has been changed to a court hold under section 253B.07, subdivision 2b, pending a judicial determination regarding continued commitment pursuant to sections 253B.12 and 253B.13.

Sec. 33. Minnesota Statutes 2018, section 253B.045, subdivision 5, is amended to read:

Subd. 5. **Health plan company; definition.** For purposes of this section, "health plan company" has the meaning given it in section 62Q.01, subdivision 4, and also includes a demonstration provider as defined in section 256B.69, subdivision 2, paragraph (b)~~,~~; and a county or group of counties participating in county-based purchasing according to section 256B.692~~, and a children's mental health collaborative under contract to provide medical assistance for individuals enrolled in the prepaid medical assistance and MinnesotaCare programs according to sections 245.493 to 245.495~~.

Sec. 34. Minnesota Statutes 2018, section 253B.045, subdivision 6, is amended to read:

Subd. 6. **Coverage.** (a) For purposes of this section, "mental health services" means all covered services that are intended to treat or ameliorate an emotional, behavioral, or psychiatric condition and that are covered by the policy, contract, or certificate of coverage of the enrollee's health plan company or by law.

(b) All health plan companies that provide coverage for mental health services must cover or provide mental health services ordered by a court of competent jurisdiction ~~under a court order that is issued on the basis of a behavioral care evaluation performed by a licensed psychiatrist or a doctoral level licensed psychologist, which includes a diagnosis and an individual treatment plan for care in the most appropriate, least restrictive environment. The health plan company must be given a copy of the court order and the behavioral care evaluation. The health plan company shall be financially liable for the evaluation if performed by a participating provider of the health plan company and shall be financially liable for the care included in the court-ordered individual treatment plan if the care is covered by the health plan company and ordered to be provided by a participating~~

~~provider or another provider as required by rule or law~~. This court-ordered coverage must not be subject to a separate medical necessity determination by a health plan company under its utilization procedures.

Sec. 35. **[253B.051] EMERGENCY ADMISSION.**

Subdivision 1. **Peace officer or health officer authority.** (a) If a peace officer or health 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, if available, knowledge or reliable information concerning the person's past behavior or treatment that the person:

(1) has a mental illness or developmental disability and is in danger of harming self or others if not immediately detained, the peace officer or health officer may take the person into custody and transport the person to a licensed physician or treatment facility or program; or

(2) is chemically dependent or intoxicated in public and in danger of harming self or others if not immediately detained, the peace officer or health officer may take the person into custody and transport the person to a facility or program; or

(3) is chemically dependent or intoxicated in public and not in danger of harming self, others, or property, the peace officer or health officer may take the person into custody and transport the person to the person's place of residence.

(b) An examiner's written statement or a written statement completed by a health officer complying with the requirements of subdivision 2 is sufficient authority for a peace officer or health officer to take the person into custody and transport the person to a treatment facility, state-operated treatment program, or community-based treatment program.

(c) A peace officer or health officer who takes a person into custody and transports the person to a facility or program under this subdivision shall make written application for admission of the person containing:

(1) the officer's statement specifying the reasons and circumstances under which the person was taken into custody;

(2) identifying information on specific individuals to the extent practicable, if danger to those individuals is a basis for the emergency hold; and

(3) the officer's name, the agency that employs the officer, and the telephone number or other contact information for purposes of receiving notice under subdivision 3.

(d) A copy of the examiner's written statement and officer's application shall be made available to the person taken into custody.

(e) The officer may provide the transportation personally or may arrange to have the person transported by a suitable medical or mental health transportation provider. As far as practicable, a peace officer who provides transportation for a person placed in a facility or program under this subdivision must not be in uniform and must not use a vehicle visibly marked as a law enforcement vehicle.

Subd. 2. **Emergency hold.** (a) Any patient present at a facility or program, including a patient transported under subdivision 1, may be admitted or held for emergency care and treatment, except at a facility operated by the Minnesota sex offender program, with the consent of the head of the facility or program upon a written statement by an examiner.

(b) The written statement must indicate that:

(1) the examiner examined the patient not more than 15 days prior to admission;

(2) the examiner interviewed the patient, or if not, the specific reasons why the patient was not interviewed;

(3) the examiner is of the opinion that the patient has a mental illness or developmental disability, or is chemically dependent and is in danger of causing harm to self or others if not immediately detained. The statement must be stated in behavioral terms and not in conclusory language and must be of sufficient specificity to provide an adequate record for review. If danger to specific individuals is a basis for the emergency hold the statement must identify those individuals to the extent practicable; and

(4) an order of the court cannot be obtained in time to prevent the anticipated injury.

(c) Prior to an examiner making the written statement, if the patient was brought to the facility or program by another person, the examiner shall make a good-faith effort to obtain a statement of information that is available from that person, which must be taken into consideration in deciding whether to place the patient on an emergency hold. To the extent available, the statement must include direct observations of the patient's behaviors, reliable knowledge of recent and past behavior, and information regarding psychiatric history, past treatment, and current mental health providers. The examiner shall also inquire into the existence of health care directives under chapter 145C and advance psychiatric directives under section 253B.03, subdivision 6d.

(d) A copy of the examiner's written statement must be personally served on the patient immediately upon initiating the emergency hold and a copy shall be maintained by the

facility or program. The patient must also be informed in writing of the right to (1) leave after 72 hours, (2) a medical examination within 48 hours, and (3) request a change to voluntary status. The facility or program shall assist the patient in exercising the rights granted in this subdivision.

(e) A patient must not be allowed or required to consent to or participate in a clinical drug trial during an emergency admission or hold under this subdivision. A consent given during a period of an emergency admission or hold is void and unenforceable. This paragraph does not prohibit a patient from continuing participation in a clinical drug trial if the patient was participating in the clinical drug trial at the time of the emergency admission or hold.

Subd. 3. **Duration of hold, release procedures, and change of status.** (a) A person transported to a facility or program under subdivision 1 must be examined and a determination made about the need for an emergency hold as soon as possible, but within 12 hours of the person's arrival at the facility or program. The peace officer or health officer hold ends upon whichever occurs first: (1) initiation of an emergency hold on the person under subdivision 2; (2) the person's voluntary admission to the facility or program; (3) the examiner's decision to not admit the person to the facility or program; or (4) 12 hours after the person's arrival at the facility or program.

(b) Any patient subject to an emergency hold under this section may be held up to 72 hours, exclusive of Saturdays, Sundays, and legal holidays, after service of the examiner's written statement for emergency hold on the patient. A patient held under this section must be released at the end of the emergency hold unless a court order to hold the patient is obtained. A consecutive emergency hold order under this section must not be issued.

(c) If a petition for the commitment of the patient is filed, the court may issue a judicial hold order pursuant to section 253B.07, subdivision 2b.

(d) During the 72-hour hold, a court must not release a patient under this section unless the court received a written petition for release and held a summary hearing regarding the release.

(e) The written petition for release must include the name of the patient being held, the basis for and location of the hold, and a statement why the hold is improper. The petition must also include copies of any written documentation under subdivision 1 or 2 in support of the hold, unless the patient, or facility or program holding the patient, refuses to supply the documentation. Upon receipt of a petition the court must comply with the following:

(1) the hearing must be held as soon as practicable and may be conducted by telephone conference call, interactive video conference, or similar method by which the participants are able to simultaneously hear each other;

(2) before deciding to release the patient, the court shall make every reasonable effort to provide notice of the proposed release and reasonable opportunity to be heard to:

(i) any specific individuals identified in a statement under subdivision 1 or 2 or individuals identified in the record who might be endangered if the person is not held;

(ii) the examiner whose written statement was the basis for the hold under subdivision 2; and

(iii) the peace officer or health officer who applied for a hold under subdivision 1; and

(3) if the court decides to release the patient, the court shall direct the release and shall issue written findings supporting the decision. The release must not be delayed pending the written order.

(f) Notwithstanding section 144.293, subdivisions 2 and 4, if a facility or program releases or discharges a patient during the 72-hour hold; the examiner refuses to admit the patient; or the patient leaves the facility or program without the consent of the treatment health care provider, the head of the facility or program shall immediately notify the agency that employs the peace officer or health officer who initiated the hold to transport the person to the facility or program under this section. This paragraph does not apply to the extent that the notice would violate federal law governing the confidentiality of alcohol and drug abuse patient records under Code of Federal Regulations, title 42, part 2.

(g) If a person is intoxicated in public and held under this section for detoxification, a facility or program may release the person without providing notice under paragraph (f) as soon as the facility or program determines the person is no longer in danger of causing harm to self or others. Notice must be provided to the peace officer or health officer who transported the person, or the appropriate law enforcement agency, if the officer or agency requests notification.

(h) Any patient admitted pursuant to this section shall be changed to voluntary status as provided in section 253B.04 upon the patient's request in writing if the head of the facility or program consents to the change.

Sec. 36. Minnesota Statutes 2018, section 253B.06, subdivision 1, is amended to read:

Subdivision 1. **Persons ~~who are mentally ill or developmentally disabled~~ with mental illness or developmental disability.** Every patient hospitalized ~~as mentally ill or developmentally disabled~~ due to mental illness or developmental disability pursuant to section 253B.04 or ~~253B.05~~ 253B.051 must be examined by a physician as soon as possible but no more than 48 hours following admission. The physician shall be knowledgeable and trained in the diagnosis of the alleged disability related to the need for admission as a person ~~who is mentally ill or developmentally disabled~~ with a mental illness or developmental disability.

Sec. 37. Minnesota Statutes 2018, section 253B.06, subdivision 2, is amended to read:

Subd. 2. **Chemically dependent persons.** Patients ~~hospitalized~~ present in a treatment facility or program as chemically dependent pursuant to section 253B.04 or ~~253B.05~~ 253B.051 shall also be examined within 48 hours of admission. At a minimum, the examination shall consist of a physical evaluation by treatment facility or community-based program staff according to procedures established by a physician and an evaluation by staff knowledgeable and trained in the diagnosis of the alleged disability related to the need for admission as a chemically dependent person.

Sec. 38. Minnesota Statutes 2018, section 253B.06, subdivision 3, is amended to read:

Subd. 3. **Discharge.** At the end of a 48-hour period, any patient admitted pursuant to section ~~253B.05~~ 253B.051 shall be discharged if an examination has not been held or if the examiner or evaluation staff person fails to notify the head of the ~~treatment~~ facility or program in writing that in the examiner's or staff person's opinion the patient is apparently in need of care, treatment, and evaluation as a ~~mentally ill, developmentally disabled, or chemically dependent~~ person who has a mental illness, developmental disability, or chemical dependency.

Sec. 39. Minnesota Statutes 2018, section 253B.07, subdivision 1, is amended to read:

Subdivision 1. **Prepetition screening.** (a) Prior to filing a petition for commitment of ~~or early intervention for~~ a proposed patient, an interested person shall apply to the designated agency in the county of financial responsibility or the county where the proposed patient is present for conduct of a preliminary investigation, except when the proposed patient has been acquitted of a crime under section 611.026 and the county attorney is required to file a petition for commitment. The designated agency shall appoint a screening team to conduct

an investigation. The petitioner may not be a member of the screening team. The investigation must include:

(1) ~~a personal~~ an interview with the proposed patient and other individuals who appear to have knowledge of the condition of the proposed patient, if practicable. In-person interviews with the proposed patient are preferred. If the proposed patient is not interviewed, specific reasons must be documented;

(2) identification and investigation of specific alleged conduct which is the basis for application;

(3) identification, exploration, and listing of the specific reasons for rejecting or recommending alternatives to involuntary placement;

(4) in the case of a commitment based on mental illness, ~~the following~~ information~~, if it is known or available,~~ that may be relevant to the administration of ~~neuroleptic~~ psychotropic medications, including the existence of a declaration under section 253B.03, subdivision 6d, or a health care directive under chapter 145C or a guardian, conservator, proxy, or agent with authority to make health care decisions for the proposed patient; information regarding the capacity of the proposed patient to make decisions regarding administration of ~~neuroleptic~~ psychotropic medication; and whether the proposed patient is likely to consent or refuse consent to administration of the medication;

(5) seeking input from the proposed patient's health plan company to provide the court with information about ~~services the enrollee needs and the least restrictive alternatives~~ relevant treatment history and current treatment providers; and

(6) in the case of a commitment based on mental illness, information listed in clause (4) for other purposes relevant to treatment.

(b) In conducting the investigation required by this subdivision, the screening team shall have access to all relevant medical records of proposed patients currently in ~~treatment~~ facilities or programs. The interviewer shall inform the proposed patient that any information provided by the proposed patient may be included in the prepetition screening report and may be considered in the commitment proceedings. Data collected pursuant to this clause shall be considered private data on individuals. The prepetition screening report is not admissible as evidence except by agreement of counsel or as permitted by this chapter or the rules of court and is not admissible in any court proceedings unrelated to the commitment proceedings.

(c) The prepetition screening team shall provide a notice, written in easily understood language, to the proposed patient, the petitioner, persons named in a declaration under chapter 145C or section 253B.03, subdivision 6d, and, with the proposed patient's consent, other interested parties. The team shall ask the patient if the patient wants the notice read and shall read the notice to the patient upon request. The notice must contain information regarding the process, purpose, and legal effects of civil commitment ~~and early intervention~~. The notice must inform the proposed patient that:

(1) if a petition is filed, the patient has certain rights, including the right to a court-appointed attorney, the right to request a second court examiner, the right to attend hearings, and the right to oppose the proceeding and to present and contest evidence; and

(2) if the proposed patient is committed to a ~~state regional treatment center or group home~~ state-operated treatment program, the patient may be billed for the cost of care and the state has the right to make a claim against the patient's estate for this cost.

The ombudsman for mental health and developmental disabilities shall develop a form for the notice which includes the requirements of this paragraph.

(d) When the prepetition screening team recommends commitment, a written report shall be sent to the county attorney for the county in which the petition is to be filed. The statement of facts contained in the written report must meet the requirements of subdivision 2, paragraph (b).

(e) The prepetition screening team shall refuse to support a petition if the investigation does not disclose evidence sufficient to support commitment. Notice of the prepetition screening team's decision shall be provided to the prospective petitioner, any specific individuals identified in the examiner's statement, and to the proposed patient.

(f) If the interested person wishes to proceed with a petition contrary to the recommendation of the prepetition screening team, application may be made directly to the county attorney, who shall determine whether or not to proceed with the petition. Notice of the county attorney's determination shall be provided to the interested party.

(g) If the proposed patient has been acquitted of a crime under section 611.026, the county attorney shall apply to the designated county agency in the county in which the acquittal took place for a preliminary investigation unless substantially the same information relevant to the proposed patient's current mental condition, as could be obtained by a preliminary investigation, is part of the court record in the criminal proceeding or is contained in the report of a mental examination conducted in connection with the criminal proceeding. If a court petitions for commitment pursuant to the Rules of Criminal or Juvenile Procedure

or a county attorney petitions pursuant to acquittal of a criminal charge under section 611.026, the prepetition investigation, if required by this section, shall be completed within seven days after the filing of the petition.

Sec. 40. Minnesota Statutes 2018, section 253B.07, subdivision 2, is amended to read:

Subd. 2. **The petition.** (a) Any interested person, except a member of the prepetition screening team, may file a petition for commitment in the district court of the county of financial responsibility or the county where the proposed patient is present. If the head of the ~~treatment~~ facility or program believes that commitment is required and no petition has been filed, ~~the head of the treatment facility~~ that person shall petition for the commitment of the ~~person~~ proposed patient.

(b) The petition shall set forth the name and address of the proposed patient, the name and address of the patient's nearest relatives, and the reasons for the petition. The petition must contain factual descriptions of the proposed patient's recent behavior, including a description of the behavior, where it occurred, and the time period over which it occurred. Each factual allegation must be supported by observations of witnesses named in the petition. Petitions shall be stated in behavioral terms and shall not contain judgmental or conclusory statements.

(c) The petition shall be accompanied by a written statement by an examiner stating that the examiner has examined the proposed patient within the 15 days preceding the filing of the petition and is of the opinion that the proposed patient ~~is suffering~~ has a designated disability and should be committed to a ~~treatment~~ facility or program. The statement shall include the reasons for the opinion. In the case of a commitment based on mental illness, the petition and the examiner's statement shall include~~, to the extent this information is available,~~ a statement and opinion regarding the proposed patient's need for treatment with ~~neuroleptic~~ psychotropic medication and the patient's capacity to make decisions regarding the administration of ~~neuroleptic~~ psychotropic medications, and the reasons for the opinion. If use of ~~neuroleptic~~ psychotropic medications is recommended by the treating physician or other qualified medical provider, the petition for commitment must, if applicable~~,~~ include or be accompanied by a request for proceedings under section 253B.092. Failure to include the required information regarding ~~neuroleptic~~ psychotropic medications in the examiner's statement, or to include a request for an order regarding ~~neuroleptic~~ psychotropic medications with the commitment petition, is not a basis for dismissing the commitment petition. If a petitioner has been unable to secure a statement from an examiner, the petition shall include documentation that a reasonable effort has been made to secure the supporting statement.

Sec. 41. Minnesota Statutes 2018, section 253B.07, subdivision 2b, is amended to read:

Subd. 2b. **Apprehend and hold orders.** (a) The court may order the treatment facility or state-operated treatment program to hold the ~~person in a treatment facility~~ proposed patient or direct a health officer, peace officer, or other person to take the proposed patient into custody and transport the proposed patient to a treatment facility or state-operated treatment program for observation, evaluation, diagnosis, care, treatment, and, if necessary, confinement, when:

(1) there has been a particularized showing by the petitioner that serious physical harm to the proposed patient or others is likely unless the proposed patient is immediately apprehended;

(2) the proposed patient has not voluntarily appeared for the examination or the commitment hearing pursuant to the summons; or

(3) a person is held pursuant to section ~~253B.05~~ 253B.051 and a request for a petition for commitment has been filed.

(b) The order of the court may be executed on any day and at any time by the use of all necessary means including the imposition of necessary restraint upon the proposed patient. Where possible, a peace officer taking the proposed patient into custody pursuant to this subdivision shall not be in uniform and shall not use a ~~motor~~ vehicle visibly marked as a ~~police~~ law enforcement vehicle. Except as provided in section 253D.10, subdivision 2, in the case of an individual on a judicial hold due to a petition for civil commitment under chapter 253D, assignment of custody during the hold is to the commissioner ~~of human services~~. The commissioner is responsible for determining the appropriate placement within a secure treatment facility under the authority of the commissioner.

(c) A proposed patient must not be allowed or required to consent to nor participate in a clinical drug trial while an order is in effect under this subdivision. A consent given while an order is in effect is void and unenforceable. This paragraph does not prohibit a patient from continuing participation in a clinical drug trial if the patient was participating in the clinical drug trial at the time the order was issued under this subdivision.

Sec. 42. Minnesota Statutes 2018, section 253B.07, subdivision 2d, is amended to read:

Subd. 2d. **Change of venue.** Either party may move to have the venue of the petition changed to the district court of the Minnesota county where the person currently lives, whether independently or pursuant to a placement. The county attorney of the proposed county of venue must be notified of the motion and provided the opportunity to respond

before the court rules on the motion. The court shall grant the motion if it determines that the transfer is appropriate and is in the interests of justice. If the petition has been filed pursuant to the Rules of Criminal or Juvenile Procedure, venue may not be changed without the agreement of the county attorney of the proposed county of venue and the approval of the court in which the juvenile or criminal proceedings are pending.

Sec. 43. Minnesota Statutes 2018, section 253B.07, subdivision 3, is amended to read:

Subd. 3. **Court-appointed examiners.** After a petition has been filed, the court shall appoint ~~an~~ a court examiner. Prior to the hearing, the court shall inform the proposed patient of the right to an independent second examination. At the proposed patient's request, the court shall appoint a second court examiner of the patient's choosing to be paid for by the county at a rate of compensation fixed by the court.

Sec. 44. Minnesota Statutes 2018, section 253B.07, subdivision 4, is amended to read:

Subd. 4. **Prehearing examination; notice and summons procedure.** (a) A summons to appear for a prehearing examination and the commitment hearing shall be served upon the proposed patient. A plain language notice of the proceedings and notice of the filing of the petition shall be given to the proposed patient, patient's counsel, the petitioner, any interested person, and any other persons as the court directs.

(b) The prepetition screening report, the petition, and the examiner's supporting statement shall be distributed to the petitioner, the proposed patient, the patient's counsel, the county attorney, any person authorized by the patient, and any other person as the court directs.

(c) All papers shall be served personally on the proposed patient. Unless otherwise ordered by the court, the notice shall be served on the proposed patient by a nonuniformed person.

Sec. 45. Minnesota Statutes 2018, section 253B.07, subdivision 5, is amended to read:

Subd. 5. **Prehearing examination; report.** The examination shall be held at a treatment facility or other suitable place the court determines is not likely to harm the health of the proposed patient. The county attorney and the patient's attorney may be present during the examination. Either party may waive this right. Unless otherwise agreed by the parties, a court-appointed examiner shall file the report with the court not less than 48 hours prior to the commitment hearing. The court shall ensure that copies of the court-appointed examiner's report are provided to the county attorney, the proposed patient, and the patient's counsel.

Sec. 46. Minnesota Statutes 2018, section 253B.07, subdivision 7, is amended to read:

Subd. 7. **Preliminary hearing.** (a) No proposed patient may be held in a treatment facility or state-operated treatment program under a judicial hold pursuant to subdivision 2b longer than 72 hours, exclusive of Saturdays, Sundays, and legal holidays, unless the court holds a preliminary hearing and determines that the standard is met to hold the ~~person~~ proposed patient.

(b) The proposed patient, patient's counsel, the petitioner, the county attorney, and any other persons as the court directs shall be given at least 24 hours written notice of the preliminary hearing. The notice shall include the alleged grounds for confinement. The proposed patient shall be represented at the preliminary hearing by counsel. The court may admit reliable hearsay evidence, including written reports, for the purpose of the preliminary hearing.

(c) The court, on its motion or on the motion of any party, may exclude or excuse a proposed patient who is seriously disruptive or who is incapable of comprehending and participating in the proceedings. In such instances, the court shall, with specificity on the record, state the behavior of the proposed patient or other circumstances which justify proceeding in the absence of the proposed patient.

(d) The court may continue the judicial hold of the proposed patient if it finds, by a preponderance of the evidence, that serious physical harm to the proposed patient or others is likely if the proposed patient is not immediately confined. If a proposed patient was acquitted of a crime against the person under section 611.026 immediately preceding the filing of the petition, the court may presume that serious physical harm to the patient or others is likely if the proposed patient is not immediately confined.

(e) Upon a showing that a ~~person~~ proposed patient subject to a petition for commitment may need treatment with ~~neuroleptic~~ psychotropic medications and that the ~~person~~ proposed patient may lack capacity to make decisions regarding that treatment, the court may appoint a substitute decision-maker as provided in section 253B.092, subdivision 6. The substitute decision-maker shall meet with the proposed patient and provider and make a report to the court at the hearing under section 253B.08 regarding whether the administration of ~~neuroleptic~~ psychotropic medications is appropriate under the criteria of section 253B.092, subdivision 7. If the substitute decision-maker consents to treatment with ~~neuroleptic~~ psychotropic medications and the proposed patient does not refuse the medication, ~~neuroleptic~~ psychotropic medication may be administered to the proposed patient. If the substitute decision-maker does not consent or the proposed patient refuses, ~~neuroleptic~~ psychotropic

medication may not be administered without a court order, or in an emergency as set forth in section 253B.092, subdivision 3.

Sec. 47. Minnesota Statutes 2018, section 253B.08, subdivision 1, is amended to read:

Subdivision 1. **Time for commitment hearing.** (a) The hearing on the commitment petition shall be held within 14 days from the date of the filing of the petition, except that the hearing on a commitment petition pursuant to section 253D.07 shall be held within 90 days from the date of the filing of the petition. For good cause shown, the court may extend the time of hearing up to an additional 30 days. The proceeding shall be dismissed if the proposed patient has not had a hearing on a commitment petition within the allowed time.

(b) The proposed patient, or the head of the ~~treatment~~ facility or program in which the ~~person~~ patient is held, may demand in writing at any time that the hearing be held immediately. Unless the hearing is held within five days of the date of the demand, exclusive of Saturdays, Sundays, and legal holidays, the petition shall be automatically dismissed if the patient is being held in a treatment facility or community-based program pursuant to court order. For good cause shown, the court may extend the time of hearing on the demand for an additional ten days. This paragraph does not apply to a commitment petition brought under section 253B.18 or chapter 253D.

Sec. 48. Minnesota Statutes 2018, section 253B.08, subdivision 2a, is amended to read:

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

Sec. 49. Minnesota Statutes 2018, section 253B.08, subdivision 5, is amended to read:

Subd. 5. **Absence permitted.** (a) The court may permit the proposed patient to waive the right to attend the hearing if it determines that the waiver is freely given. At the time of the hearing the proposed patient shall not be so under the influence of drugs, medication, or other treatment so as to be hampered in participating in the proceedings. When the ~~licensed physician or licensed psychologist attending the patient~~ professional responsible for the proposed patient's treatment is of the opinion that the discontinuance of ~~drugs,~~ medication~~,~~ or other treatment is not in the best interest of the proposed patient, the court, at the time of

the hearing, shall be presented a record of all ~~drugs,~~ medication or other treatment which the proposed patient has received during the 48 hours immediately prior to the hearing.

(b) The court, on its own motion or on the motion of any party, may exclude or excuse a proposed patient who is seriously disruptive or who is incapable of comprehending and participating in the proceedings. In such instances, the court shall, with specificity on the record, state the behavior of the proposed patient or other circumstances justifying proceeding in the absence of the proposed patient.

Sec. 50. Minnesota Statutes 2018, section 253B.08, subdivision 5a, is amended to read:

Subd. 5a. **Witnesses.** The proposed patient or the patient's counsel and the county attorney may present and cross-examine witnesses, including court-appointed examiners, at the hearing. The court may in its discretion receive the testimony of any other person. Opinions of court-appointed examiners may not be admitted into evidence unless the court-appointed examiner is present to testify, except by agreement of the parties.

Sec. 51. Minnesota Statutes 2018, section 253B.09, subdivision 1, is amended to read:

Subdivision 1. **Standard of proof.** (a) If the court finds by clear and convincing evidence that the proposed patient is a person ~~who is mentally ill, developmentally disabled, or chemically dependent~~ posing a risk of harm due to mental illness, or is a person who has a developmental disability or chemical dependency, and after careful consideration of reasonable alternative dispositions~~,~~ including but not limited to~~,~~ dismissal of petition~~,~~; voluntary outpatient care~~,~~; voluntary admission to a treatment facility, state-operated treatment program, or community-based treatment program; appointment of a guardian or conservator~~,~~; or release before commitment as provided for in subdivision 4, it finds that there is no suitable alternative to judicial commitment, the court shall commit the patient to the least restrictive treatment program or alternative programs which can meet the patient's treatment needs consistent with section 253B.03, subdivision 7.

(b) In deciding on the least restrictive program, the court shall consider a range of treatment alternatives including~~,~~ but not limited to~~,~~ community-based nonresidential treatment, community residential treatment, partial hospitalization, acute care hospital, assertive community treatment teams, and ~~regional~~ state-operated treatment ~~center services~~ programs. The court shall also consider the proposed patient's treatment preferences and willingness to participate voluntarily in the treatment ordered. The court may not commit a patient to a facility or program that is not capable of meeting the patient's needs.

(c) If after careful consideration of reasonable alternative dispositions the court finds no suitable alternative to judicial commitment and the least restrictive alternative as determined in paragraph (a) is a facility or program that is less restrictive or more community based than a state-operated treatment program, and there is a treatment facility or a community-based treatment program willing to accept the patient as committed to it by the court, the court may commit the patient to both the non-state-operated facility or community-based treatment program and to the commissioner, in the event that treatment in a state-operated treatment program becomes the least restrictive alternative. If there is a change in the patient's level of care, then:

(1) in the event of a need for a higher level of care requiring admission to a state-operated treatment program, custody of the patient and authority and responsibility for the commitment may be transferred to the commissioner for as long as the higher level of care is needed; and

(2) when treatment in the state-operated treatment program is no longer needed, the patient may be provisionally discharged to an appropriate placement or released to the treatment facility or community-based program if it continues to be willing and able to readmit the patient to the program or facility, in which case the commitment, its authority and responsibilities revert to the non-state-operated treatment program. Both agencies accepting commitment shall coordinate admission and discharge planning to facilitate timely access to the other's services as the needs of the patient determine and shall coordinate treatment planning consistent with section 253B.03, subdivision 7.

~~(c)~~ (d) If the commitment ~~as mentally ill, chemically dependent, or developmentally disabled is to a service facility provided by the commissioner of human services~~ of a person posing a risk of harm due to mental illness or as a person who has a developmental disability or chemical dependency is to a state-operated treatment program, the court shall order the commitment to the commissioner. The commissioner shall designate the placement of the person to the court.

~~(d)~~ (e) If the court finds a proposed patient to be a person who is mentally ill under section 253B.02, subdivision 13, ~~paragraph (a),~~ clause ~~(2) or~~ (4), the court shall commit to a community-based program that meets the proposed patient's needs. For purposes of this paragraph, a community-based program may include inpatient mental health services at a community hospital.

Sec. 52. Minnesota Statutes 2018, section 253B.09, subdivision 2, is amended to read:

Subd. 2. **Findings.** (a) The court shall find the facts specifically, and separately state its conclusions of law. Where commitment is ordered, the findings of fact and conclusions of law shall specifically state the proposed patient's conduct which is a basis for determining that each of the requisites for commitment is met.

(b) If commitment is ordered, the findings shall also identify less restrictive alternatives considered and rejected by the court and the reasons for rejecting each alternative.

(c) If the proceedings are dismissed, the court may direct that the person be transported back to a suitable location including to the person's place of residence.

Sec. 53. Minnesota Statutes 2018, section 253B.09, subdivision 3a, is amended to read:

Subd. 3a. **Reporting judicial commitments; private treatment program or facility.** Notwithstanding section 253B.23, subdivision 9, when a court commits a patient to a treatment ~~program or~~ facility or community-based program other than a state-operated treatment program ~~or facility~~, the court shall report the commitment to the commissioner through the supreme court information system for purposes of providing commitment information for firearm background checks under section 245.041. If the patient is committed to a state-operated treatment program the court shall send a copy of the commitment order to the commissioner.

Sec. 54. Minnesota Statutes 2018, section 253B.09, subdivision 5, is amended to read:

Subd. 5. **Initial commitment period.** The initial commitment begins on the date that the court issues its order or warrant under section 253B.10, subdivision 1. For ~~persons~~ a person committed as ~~mentally ill, developmentally disabled,~~ a person posing a risk of harm due to mental illness, or a person who has a developmental disability, or ~~chemically dependent~~ chemical dependency, the initial commitment shall not exceed six months.

Sec. 55. Minnesota Statutes 2018, section 253B.092, is amended to read:

253B.092 ADMINISTRATION OF ~~NEUROLEPTIC~~ PSYCHOTROPIC MEDICATION.

Subdivision 1. **General.** ~~Neuroleptic~~ Psychotropic medications may be administered, only as provided in this section, to patients subject to ~~early intervention or~~ civil commitment ~~as mentally ill, mentally ill and dangerous, a sexually dangerous person, or a person with a sexual psychopathic personality~~ under this chapter or chapter 253D. For purposes of this

section, "patient" includes a proposed patient who is the subject of a petition for ~~early intervention or~~ commitment and a committed person as defined in section 253D.02, subdivision 4.

Subd. 2. **Administration without judicial review.** ~~Neuroleptic~~ (a) Psychotropic medications may be administered without judicial review in the following circumstances:

(1) the patient has the capacity to make an informed decision under subdivision 4;

(2) the patient does not have the present capacity to consent to the administration of ~~neuroleptic~~ psychotropic medication, but prepared a health care directive under chapter 145C or a declaration under section 253B.03, subdivision 6d, requesting treatment or authorizing an agent or proxy to request treatment, and the agent or proxy has requested the treatment;

(3) the patient has been prescribed ~~neuroleptic~~ psychotropic medication prior to admission to a treatment facility, but lacks the present capacity to consent to the administration of that ~~neuroleptic~~ psychotropic medication; continued administration of the medication is in the patient's best interest; and the patient does not refuse administration of the medication. In this situation, the previously prescribed ~~neuroleptic~~ psychotropic medication may be continued for up to 14 days while the treating physician:

(i) is obtaining a substitute decision-maker appointed by the court under subdivision 6; or

(ii) is requesting a court order authorizing administration of psychotropic medication or an amendment to a current court order authorizing administration of ~~neuroleptic~~ psychotropic medication;

(4) a substitute decision-maker appointed by the court consents to the administration of the ~~neuroleptic~~ psychotropic medication and the patient does not refuse administration of the medication; or

(5) the substitute decision-maker does not consent or the patient is refusing medication, and the patient is in an emergency situation.

(b) For the purposes of paragraph (a), clause (3), if a request for a substitute decision-maker or a court order authorizing administration of psychotropic medication is made to the court within 14 days, the treating physician may continue the medication through the date of the hearing or until an order is otherwise issued by the court.

Subd. 3. **Emergency administration.** A treating physician may administer ~~neuroleptic~~ psychotropic medication to a patient who does not have capacity to make a decision regarding

administration of the medication if the patient 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 request for authorization to administer medication is made to the court 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 request for authorization to administer medication is made to the court in conjunction with a petition for commitment ~~or early intervention~~ 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 or program shall document the emergency in the patient's medical record in specific behavioral terms.

Subd. 4. **Patients with capacity to make informed decision.** A patient who has the capacity to make an informed decision regarding the administration of ~~neuroleptic~~ psychotropic medication may consent or refuse consent to administration of the medication. The informed consent of a patient must be in writing.

Subd. 5. **Determination of capacity.** (a) There is a rebuttable presumption that a patient ~~is presumed to have~~ has the capacity to make decisions regarding administration of ~~neuroleptic~~ psychotropic medication.

(b) ~~In determining~~ A ~~person's~~ patient has the capacity to make decisions regarding the administration of ~~neuroleptic~~ psychotropic medication~~, the court shall consider~~ if the patient:

(1) ~~whether the person demonstrates~~ has an awareness of the nature of the ~~person's~~ patient's situation, including the reasons for hospitalization, and the possible consequences of refusing treatment with ~~neuroleptic~~ psychotropic medications;

(2) ~~whether the person demonstrates~~ has an understanding of treatment with ~~neuroleptic~~ psychotropic medications and the risks, benefits, and alternatives; and

(3) ~~whether the person~~ communicates verbally or nonverbally a clear choice regarding treatment with ~~neuroleptic~~ psychotropic medications that is a reasoned one not based on ~~delusion~~ a symptom of the patient's mental illness, even though it may not be in the ~~person's~~ patient's best interests.

(c) Disagreement with the physician's recommendation alone is not evidence of an unreasonable decision.

Subd. 6. **Patients without capacity to make informed decision; substitute decision-maker.** (a) Upon request of any person, and upon a showing that administration of ~~neuroleptic~~ psychotropic medications may be recommended and that the ~~person~~ patient may lack capacity to make decisions regarding the administration of ~~neuroleptic~~ psychotropic medication, the court shall appoint a substitute decision-maker with authority to consent to the administration of ~~neuroleptic~~ psychotropic medication as provided in this section. A hearing is not required for an appointment under this paragraph. The substitute decision-maker must be an individual or a community or institutional multidisciplinary panel designated by the local mental health authority. In appointing a substitute decision-maker, the court shall give preference to a guardian or conservator, proxy, or health care agent with authority to make health care decisions for the patient. The court may provide for the payment of a reasonable fee to the substitute decision-maker for services under this section or may appoint a volunteer.

(b) If the ~~person's~~ patient's treating physician recommends treatment with ~~neuroleptic~~ psychotropic medication, the substitute decision-maker may give or withhold consent to the administration of the medication, based on the standards under subdivision 7. If the substitute decision-maker gives informed consent to the treatment and the ~~person~~ patient does not refuse, the substitute decision-maker shall provide written consent to the treating physician and the medication may be administered. The substitute decision-maker shall also notify the court that consent has been given. If the substitute decision-maker refuses or withdraws consent or the ~~person~~ patient refuses the medication, ~~neuroleptic~~ psychotropic medication ~~may~~ must not be administered to the ~~person without~~ patient except with a court order or in an emergency.

(c) A substitute decision-maker appointed under this section has access to the relevant sections of the patient's health records on the past or present administration of medication. The designated agency or a person involved in the patient's physical or mental health care may disclose information to the substitute decision-maker for the sole purpose of performing the responsibilities under this section. The substitute decision-maker may not disclose health records obtained under this paragraph except to the extent necessary to carry out the duties under this section.

(d) At a hearing under section 253B.08, the petitioner has the burden of proving incapacity by a preponderance of the evidence. If a substitute decision-maker has been appointed by the court, the court shall make findings regarding the patient's capacity to make decisions regarding the administration of ~~neuroleptic~~ psychotropic medications and affirm or reverse its appointment of a substitute decision-maker. If the court affirms the appointment of the

substitute decision-maker, and if the substitute decision-maker has consented to the administration of the medication and the patient has not refused, the court shall make findings that the substitute decision-maker has consented and the treatment is authorized. If a substitute decision-maker has not yet been appointed, upon request the court shall make findings regarding the patient's capacity and appoint a substitute decision-maker if appropriate.

(e) If an order for civil commitment ~~or early intervention~~ did not provide for the appointment of a substitute decision-maker or for the administration of ~~neuroleptic~~ psychotropic medication, the treatment facility or program may later request the appointment of a substitute decision-maker upon a showing that administration of ~~neuroleptic~~ psychotropic medications is recommended and that the ~~person~~ patient lacks capacity to make decisions regarding the administration of ~~neuroleptic~~ psychotropic medications. A hearing is not required in order to administer the ~~neuroleptic~~ psychotropic medication unless requested under subdivision 10 or if the substitute decision-maker withholds or refuses consent or the ~~person~~ patient refuses the medication.

(f) The substitute decision-maker's authority to consent to treatment lasts for the duration of the court's order of appointment or until modified by the court.

(g) If the substitute decision-maker withdraws consent or the patient refuses consent, ~~neuroleptic~~ psychotropic medication may not be administered without a court order.

~~(g)~~ (h) If there is no hearing after the preliminary hearing, then the court shall, upon the request of any interested party, review the reasonableness of the substitute decision-maker's decision based on the standards under subdivision 7. The court shall enter an order upholding or reversing the decision within seven days.

Subd. 7. **When ~~person~~ patient lacks capacity to make decisions about medication.** (a) When a ~~person~~ patient lacks capacity to make decisions regarding the administration of ~~neuroleptic~~ psychotropic medication, the substitute decision-maker or the court shall use the standards in this subdivision in making a decision regarding administration of the medication.

(b) If the ~~person~~ patient clearly stated what the ~~person~~ patient would choose to do in this situation when the ~~person~~ patient had the capacity to make a reasoned decision, the ~~person's~~ patient's wishes must be followed. Evidence of the ~~person's~~ patient's wishes may include written instruments, including a durable power of attorney for health care under chapter 145C or a declaration under section 253B.03, subdivision 6d.

(c) If evidence of the ~~person's~~ patient's wishes regarding the administration of ~~neuroleptic~~ psychotropic medications is conflicting or lacking, the decision must be based on what a reasonable person would do, taking into consideration:

(1) the ~~person's~~ patient's family, community, moral, religious, and social values;

(2) the medical risks, benefits, and alternatives to the proposed treatment;

(3) past efficacy and any extenuating circumstances of past use of ~~neuroleptic~~ psychotropic medications; and

(4) any other relevant factors.

Subd. 8. **Procedure when patient refuses psychotropic medication.** (a) If the substitute decision-maker or the patient refuses to consent to treatment with ~~neuroleptic~~ psychotropic medications, and absent an emergency as set forth in subdivision 3, ~~neuroleptic~~ psychotropic medications may not be administered without a court order. Upon receiving a written request for a hearing, the court shall schedule the hearing within 14 days of the request. The matter may be heard as part of any other district court proceeding under this chapter. By agreement of the parties or for good cause shown, the court may extend the time of hearing an additional 30 days.

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

(c) 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.

(d) If the court finds that the patient has the capacity to decide whether to take ~~neuroleptic~~ psychotropic medication or that the patient lacks capacity to decide and the standards for making a decision to administer the medications under subdivision 7 are not met, the treating facility or program 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.

(e) If the court finds that the patient lacks capacity to decide whether to take ~~neuroleptic~~ psychotropic medication and has applied the standards set forth in subdivision 7, the court may authorize the treating facility or program and any other ~~community or treatment~~ facility

or program to which the patient may be transferred or provisionally discharged, to involuntarily administer the medication to the patient. A copy of the order must be given to the patient, the patient's attorney, the county attorney, and the treatment facility or program. The treatment facility or program may not begin administration of the ~~neuroleptic~~ psychotropic medication until it notifies the patient of the court's order authorizing the treatment.

(f) A finding of lack of capacity under this section must not be construed to determine the patient's competence for any other purpose.

(g) The court may authorize the administration of ~~neuroleptic~~ psychotropic medication until the termination of a determinate commitment. If the patient is committed for an indeterminate period, the court may authorize treatment ~~of neuroleptic~~ with psychotropic 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 or program must submit annual reports to the court, which shall provide copies to the patient and the respective attorneys.

(h) The court may limit the maximum dosage of ~~neuroleptic~~ psychotropic medication that may be administered.

(i) If physical force is required to administer the ~~neuroleptic~~ medication, only injectable medications may be used. If physical force is needed to administer the medication, administration may only take place in a ~~treatment facility or therapeutic~~ setting where the person's condition can be reassessed and ~~appropriate~~ medical ~~staff~~ personnel qualified to administer medication are available, including in the community, a county jail, or a correctional facility. A nasogastric tube must not be used to administer psychotropic medication involuntarily.

Subd. 9. **Immunity.** A substitute decision-maker who consents to treatment is not civilly or criminally liable for the performance of or the manner of performing the treatment. A person is not liable for performing treatment without consent if the substitute decision-maker has given written consent. This provision does not affect any other liability that may result from the manner in which the treatment is performed.

Subd. 10. **Review.** A patient or other person may petition the court under section 253B.17 for review of any determination under this section or for a decision regarding the administration of ~~neuroleptic~~ psychotropic medications, appointment of a substitute decision-maker, or the patient's capacity to make decisions regarding administration of ~~neuroleptic~~ psychotropic medications.

Sec. 56. Minnesota Statutes 2018, section 253B.0921, is amended to read:

253B.0921 ACCESS TO MEDICAL RECORDS.

A treating physician who makes medical decisions regarding the prescription and administration of medication for treatment of a mental illness has access to the relevant sections of a patient's health records on past administration of medication at any ~~treatment~~ facility or program, if the patient lacks the capacity to authorize the release of records. Upon request of a treating physician under this section, a ~~treatment~~ facility or program shall supply complete information relating to the past records on administration of medication of a patient subject to this chapter. 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 sections 144.291 to 144.298.

Sec. 57. Minnesota Statutes 2018, section 253B.095, subdivision 3, is amended to read:

Subd. 3. **Duration.** The maximum duration of a stayed order under this section is six months. The court may continue the order for a maximum of an additional 12 months if, after notice and hearing, under sections 253B.08 and 253B.09 the court finds that (1) the person continues to ~~be mentally ill, chemically dependent, or developmentally disabled,~~ have a mental illness, developmental disability, or chemical dependency, and (2) an order is needed ~~to protect the patient or others~~ because without the supervision of a stayed commitment the person is likely to attempt to physically harm self or others or fail to obtain necessary food, clothing, shelter, or medical care.

Sec. 58. Minnesota Statutes 2018, section 253B.097, subdivision 1, is amended to read:

Subdivision 1. **Findings.** In addition to the findings required under section 253B.09, subdivision 2, an order committing a person to a community-based treatment program must include:

(1) a written plan for services to the patient;

(2) a finding that the proposed treatment is available and accessible to the patient and that public or private financial resources are available to pay for the proposed treatment;

(3) conditions the patient must meet in order to obtain an early release from commitment or to avoid a hearing for further commitment; and

(4) consequences of the patient's failure to follow the commitment order. Consequences may include commitment to another setting for treatment.

Sec. 59. Minnesota Statutes 2018, section 253B.097, subdivision 2, is amended to read:

Subd. 2. **Case manager.** When a court commits a patient with mental illness to community-based treatment program, the court shall appoint a case manager from the county agency or other entity under contract with the county agency to provide case management services.

Sec. 60. Minnesota Statutes 2018, section 253B.097, subdivision 3, is amended to read:

Subd. 3. **Reports.** The case manager shall report to the court at least once every 90 days. The case manager shall immediately report to the court a substantial failure of the patient or provider to comply with the conditions of the commitment.

Sec. 61. Minnesota Statutes 2018, section 253B.097, subdivision 6, is amended to read:

Subd. 6. **Immunity from liability.** No facility, program, or person is financially liable, personally or otherwise, for actions of the patient if the facility, program, or person follows accepted community standards of professional practice in the management, supervision, and treatment of the patient. For purposes of this subdivision, "person" means official, staff, employee of the facility, program, physician, or other individual who is responsible for the management, supervision, or treatment of a patient's community-based treatment under this section.

Sec. 62. Minnesota Statutes 2018, section 253B.10, is amended to read:

253B.10 PROCEDURES UPON COMMITMENT.

Subdivision 1. **Administrative requirements.** (a) When a person is committed, the court shall issue a warrant or an order committing the patient to the custody of the head of the ~~treatment~~ facility or program. The warrant or order shall state that the patient meets the statutory criteria for civil commitment.

(b) The commissioner shall prioritize patients being admitted from jail or a correctional institution who are:

(1) ordered confined in a ~~state hospital~~ state-operated treatment program for an examination under Minnesota Rules of Criminal Procedure, rules 20.01, subdivision 4, paragraph (a), and 20.02, subdivision 2;

(2) under civil commitment for competency treatment and continuing supervision under Minnesota Rules of Criminal Procedure, rule 20.01, subdivision 7;

(3) found not guilty by reason of mental illness under Minnesota Rules of Criminal Procedure, rule 20.02, subdivision 8, and under civil commitment or are ordered to be detained in a ~~state hospital or other~~ state-operated treatment program or treatment facility pending completion of the civil commitment proceedings; or

(4) committed under this chapter to the commissioner after dismissal of the patient's criminal charges.

Patients described in this paragraph must be admitted to a ~~service operated by the commissioner~~ state-operated treatment program within 48 hours. The commitment must be ordered by the court as provided in section 253B.09, subdivision 1, paragraph ~~(c)~~ (d).

(c) Upon the arrival of a patient at the designated treatment facility or program, the head of the facility or program shall retain the duplicate of the warrant and endorse receipt upon the original warrant or acknowledge receipt of the order. The endorsed receipt or acknowledgment must be filed in the court of commitment. After arrival, the patient shall be under the control and custody of the head of the ~~treatment~~ facility or program.

(d) Copies of the petition for commitment, the court's findings of fact and conclusions of law, the court order committing the patient, the report of the court-appointed examiners, and the prepetition report, and any medical and behavioral information available shall be provided at the time of admission of a patient to the designated treatment facility or program to which the patient is committed. This information shall also be provided by the head of the treatment facility or program to ~~treatment facility~~ staff in a consistent and timely manner and pursuant to all applicable laws.

Subd. 2. **Transportation.** (a) When a patient is about to be placed in a ~~treatment~~ facility or program, the court may order the designated agency, the ~~treatment~~ facility or program, or any responsible adult to transport the patient to the ~~treatment~~ facility or program. Transportation may be done by a protected transport provider according to section 256B.0625, subdivision 17. Whenever possible, a peace officer who provides the transportation shall not be in uniform and shall not use a vehicle visibly marked as a ~~police~~ law enforcement vehicle. The proposed patient may be accompanied by one or more interested persons.

(b) When a patient who is at a ~~regional~~ state-operated treatment ~~center~~ program requests a hearing for adjudication of a patient's status pursuant to section 253B.17, the commissioner shall provide transportation.

Subd. 3. **Notice of admission.** Whenever a committed person has been admitted to a ~~treatment~~ facility or program under the provisions of section 253B.09 or 253B.18, the head of the ~~treatment~~ facility or program shall immediately notify the patient's spouse, health

care agent, or parent and the county of financial responsibility if the county may be liable for a portion of the cost of treatment. If the committed person was admitted upon the petition of a spouse, health care agent, or parent, the head of the ~~treatment~~ facility or program shall notify an interested person other than the petitioner.

Subd. 3a. **Interim custody and treatment of committed person.** When the patient is present in a facility or program at the time of the court's commitment order, unless the court orders otherwise, the commitment order constitutes authority for that facility or program to confine and provide treatment to the patient until the patient is transferred to the facility or program to which the patient has been committed.

Subd. 4. **Private treatment.** Patients or other responsible persons are required to pay the necessary charges for patients committed or transferred to ~~private treatment~~ non-state-operated treatment facilities or programs. ~~Private~~ Non-state-operated treatment facilities or programs may not refuse to accept a committed person solely based on the person's court-ordered status. Insurers must provide treatment and services as ordered by the court under section 253B.045, subdivision 6, or as required under chapter 62M.

Subd. 5. **Transfer to voluntary status.** At any time prior to the expiration of the initial commitment period, a patient who has not been committed as ~~mentally ill~~ a person who has a mental illness and is dangerous to the public or as a sexually dangerous person or as a sexual psychopathic personality may be transferred to voluntary status upon the patient's application in writing with the consent of the head of the facility or program to which the person is committed. Upon transfer, the head of the ~~treatment~~ facility or program shall immediately notify the court in writing and the court shall terminate the proceedings.

Sec. 63. Minnesota Statutes 2018, section 253B.12, subdivision 1, is amended to read:

Subdivision 1. **Reports.** (a) If a patient who was committed as a person ~~who is mentally ill, developmentally disabled, or chemically dependent~~ posing a risk of harm due to a mental illness, or as a person who has a developmental disability or chemical dependency, is discharged from commitment within the first 60 days after the date of the initial commitment order, the head of the ~~treatment~~ facility or program shall file a written report with the committing court describing the patient's need for further treatment. A copy of the report must be provided to the county attorney, the patient, and the patient's counsel.

(b) If a patient who was committed as a person ~~who is mentally ill, developmentally disabled, or chemically dependent~~ posing a risk of harm due to a mental illness, or as a person who has a developmental disability or chemical dependency, remains in treatment more than 60 days after the date of the commitment, then at least 60 days, but not more than

90 days, after the date of the order, the head of the facility or program that has custody of the patient shall file a written report with the committing court and provide a copy to the county attorney, the patient, and the patient's counsel. The report must set 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, the ~~treatment~~ facility ~~which~~ or program that is needed, and evidence to support the response;

(6) whether the patient satisfies the statutory requirement for continued commitment ~~to a treatment facility,~~ with documentation to support the opinion; ~~and~~

(7) a statement from the patient related to accepting treatment, if possible; and

~~(7)~~ (8) whether the administration of ~~neuroleptic~~ psychotropic medication is clinically indicated, whether the patient is able to give informed consent to that medication, and the basis for these opinions.

(c) Prior to the termination of the initial commitment order or final discharge of the patient, the head of the ~~treatment~~ facility or program that has custody or care of the patient shall file a written report with the committing court with a copy to the county attorney, the patient, and the patient's counsel that sets forth the information required in paragraph (b).

(d) If the patient has been provisionally discharged from a ~~treatment~~ facility or program, the report shall be filed by the designated agency, which may submit the discharge report as part of its report.

(e) ~~If no written report is filed within the required time, or~~ If a report describes the patient as not in need of further ~~institutional care and~~ court-ordered treatment, the proceedings must be terminated by the committing court and the patient discharged from the ~~treatment~~ facility or program, unless the patient chooses to voluntarily receive services.

(f) If no written report is filed within the required time, the court must notify the county, facility or program to which the person is committed, and designated agency and require a report be filed within five business days. If a report is not filed within five business days a hearing must be held within three business days.

Sec. 64. Minnesota Statutes 2018, section 253B.12, subdivision 2, is amended to read:

Subd. 2. **Basis for discharge.** ~~If no written report is filed within the required time or~~ If the written statement describes the patient as not in need of further ~~institutional care and~~ court-ordered treatment, the proceedings shall be terminated by the committing court, and the patient shall be discharged from the ~~treatment~~ facility or program, unless the patient chooses to voluntarily receive services.

Sec. 65. Minnesota Statutes 2018, section 253B.12, subdivision 3, is amended to read:

Subd. 3. **Examination.** Prior to the review hearing, the court shall inform the patient of the right to an independent examination by ~~an~~ a court-appointed examiner chosen by the patient and appointed in accordance with provisions of section 253B.07, subdivision 3. The report of the court-appointed examiner may be submitted at the hearing.

Sec. 66. Minnesota Statutes 2018, section 253B.12, subdivision 4, is amended to read:

Subd. 4. **Hearing; standard of proof.** (a) The committing court shall not make a final determination of the need to continue commitment unless the court finds by clear and convincing evidence that (1) the ~~person~~ patient continues to ~~be mentally ill, developmentally disabled, or chemically dependent~~ have a mental illness, developmental disability, or chemical dependency; (2) involuntary commitment is necessary for the protection of the patient or others; and (3) there is no alternative to involuntary commitment.

(b) In determining whether a ~~person~~ patient continues to ~~be mentally ill, chemically dependent, or developmentally disabled,~~ require commitment due to mental illness, developmental disability, or chemical dependency, the court need not find that there has been a recent attempt or threat to physically harm self or others, or a recent failure to provide necessary ~~personal~~ food, clothing, shelter, or medical care. Instead, the court must find that the patient is likely to attempt to physically harm self or others, or to fail to ~~provide~~ obtain necessary ~~personal~~ food, clothing, shelter, or medical care unless involuntary commitment is continued.

Sec. 67. Minnesota Statutes 2018, section 253B.12, subdivision 7, is amended to read:

Subd. 7. **Record required.** Where continued commitment is ordered, the findings of fact and conclusions of law shall specifically state the conduct of the proposed patient which is the basis for the final determination, that the statutory criteria of commitment continue to be met, and that less restrictive alternatives have been considered and rejected by the court. Reasons for rejecting each alternative shall be stated. A copy of the final order for

continued commitment shall be forwarded to the head of the ~~treatment~~ facility or program to which the person is committed and, if the patient has been provisionally discharged, to the designated agency responsible for monitoring the provisional discharge.

Sec. 68. Minnesota Statutes 2018, section 253B.13, subdivision 1, is amended to read:

Subdivision 1. ~~**Mentally ill or chemically dependent**~~ **Persons with mental illness or chemical dependency.** (a) If at the conclusion of a review hearing the court finds that the person continues to ~~be mentally ill or chemically dependent~~ have mental illness or chemical dependency and be in need of treatment or supervision, the court shall determine the length of continued commitment. No period of commitment shall exceed this length of time or 12 months, whichever is less.

(b) At the conclusion of the prescribed period under paragraph (a), commitment may not be continued unless a new petition is filed pursuant to section 253B.07 and hearing and determination made on it. If the petition was filed before the end of the previous commitment and, for good cause shown, the hearing and the determination is not completed by the end of the commitment period, the court may for good cause extend the previous commitment for up to 14 days to allow the completion of the hearing and the issuance of a determination. The standard of proof on the new petition is the standard specified in section 253B.12, subdivision 4. Notwithstanding the provisions of section 253B.09, subdivision 5, the initial commitment period under the new petition shall be the probable length of commitment necessary or 12 months, whichever is less. ~~The standard of proof at the hearing on the new petition shall be the standard specified in section 253B.12, subdivision 4.~~

Sec. 69. Minnesota Statutes 2018, section 253B.14, is amended to read:

253B.14 TRANSFER OF COMMITTED PERSONS.

The commissioner may transfer any committed person, other than a person committed as ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public, or as a sexually dangerous person or as a sexual psychopathic personality, from one ~~regional~~ state-operated treatment ~~center~~ program to any other state-operated treatment ~~facility under the commissioner's jurisdiction which is~~ program capable of providing proper care and treatment. When a committed person is transferred from one state-operated treatment ~~facility~~ program to another, written notice shall be given to the committing court, the county attorney, the patient's counsel, and to the person's parent, health care agent, or spouse or, if none is known, to an interested person, and the designated agency.

Sec. 70. Minnesota Statutes 2018, section 253B.141, is amended to read:

253B.141 AUTHORITY TO DETAIN AND TRANSPORT A MISSING PATIENT.

Subdivision 1. **Report of absence.** (a) If a patient committed under this chapter or detained in a facility or program under a judicial hold is absent without authorization, and either: (1) does not return voluntarily within 72 hours of the time the unauthorized absence began; or (2) is considered by the head of the ~~treatment~~ facility or program to be a danger to self or others, then the head of the ~~treatment~~ facility or program shall report the absence to the local law enforcement agency. The head of the ~~treatment~~ facility or program shall also notify the committing court that the patient is absent and that the absence has been reported to the local law enforcement agency. The committing court may issue an order directing the law enforcement agency to transport the patient to an appropriate facility or program.

(b) Upon receiving a report that a patient subject to this section is absent without authorization, the local law enforcement agency shall enter information on the patient into the missing persons file of the National Crime Information Center computer according to the missing persons practices.

Subd. 2. **Apprehension; return to facility or program.** (a) Upon receiving the report of absence from the head of the ~~treatment~~ facility or program or the committing court, a patient may be apprehended and held by a peace officer in any jurisdiction pending return to the facility or program from which the patient is absent without authorization. A patient may also be returned to any ~~facility operated by the commissioner~~ state-operated treatment program or any other treatment facility or community-based treatment program willing to accept the person. A person who ~~is mentally ill~~ has a mental illness and is dangerous to the public and detained 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;

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

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

(b) If a patient is detained under this subdivision, the head of the ~~treatment~~ facility or program from which the patient is absent shall arrange to pick up the patient within 24 hours of the time detention was begun and shall be responsible for securing transportation for the patient to the facility or program. The expense of detaining and transporting a patient shall be the responsibility of the ~~treatment~~ facility or program from which the patient is absent.

The expense of detaining and transporting a patient to a state-operated treatment ~~facility operated by the Department of Human Services~~ program shall be paid by the commissioner unless paid by the patient or persons on behalf of the patient.

Subd. 3. **Notice of apprehension.** Immediately after an absent patient is located, the head of the ~~treatment~~ facility or program from which the patient is absent, or the law enforcement agency that located or returned the absent patient, shall notify the law enforcement agency that first received the absent patient report under this section and that agency shall cancel the missing persons entry from the National Crime Information Center computer.

Sec. 71. Minnesota Statutes 2018, section 253B.15, subdivision 1, is amended to read:

Subdivision 1. **Provisional discharge.** (a) The head of the ~~treatment~~ facility or program may provisionally discharge any patient without discharging the commitment, unless the patient was found by the committing court to be a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public, ~~or~~ a sexually dangerous person, or a sexual psychopathic personality.

(b) When a patient committed to the commissioner becomes ready for provisional discharge before being placed in a state-operated treatment program, the head of the non-state-operated treatment facility or program where the patient is placed pending transfer to the commissioner may provisionally discharge the patient pursuant to this subdivision.

(c) Each patient released on provisional discharge shall have a written ~~aftercare~~ provisional discharge plan developed with input from the patient and the designated agency which specifies the services and treatment to be provided as part of the ~~aftercare~~ provisional discharge plan, the financial resources available to pay for the services specified, the expected period of provisional discharge, the precise goals for the granting of a final discharge, and conditions or restrictions on the patient during the period of the provisional discharge. The ~~aftercare~~ provisional discharge plan shall be provided to the patient, the patient's attorney, and the designated agency.

(d) The ~~aftercare~~ provisional discharge plan shall be reviewed on a quarterly basis by the patient, designated agency and other appropriate persons. The ~~aftercare~~ provisional discharge plan shall contain the grounds upon which a provisional discharge may be revoked. The provisional discharge shall terminate on the date specified in the plan unless specific action is taken to revoke or extend it.

Sec. 72. Minnesota Statutes 2018, section 253B.15, subdivision 1a, is amended to read:

Subd. 1a. **Representative of designated agency.** Before a provisional discharge is granted, a representative of the designated agency must be identified to ensure continuity of care by being involved with the ~~treatment~~ facility or program and the patient prior to the provisional discharge. The representative of the designated agency shall coordinate plans for and monitor the patient's aftercare program. When the patient is on a provisional discharge, the representative of the designated agency shall provide the treatment report to the court required under section 253B.12, subdivision 1.

Sec. 73. Minnesota Statutes 2018, section 253B.15, subdivision 2, is amended to read:

Subd. 2. **Revocation of provisional discharge.** (a) The designated agency may ~~revoke~~ initiate with the court a revocation of a provisional discharge if revocation is the least restrictive alternative and either:

(1) the patient has violated material conditions of the provisional discharge, and the violation creates the need to return the patient to a more restrictive setting or more intensive community services; or

(2) there exists a serious likelihood that the safety of the patient or others will be jeopardized, in that either the patient's need for food, clothing, shelter, or medical care are not being met, or will not be met in the near future, or the patient has attempted or threatened to seriously physically harm self or others~~; and~~.

~~(3) revocation is the least restrictive alternative available.~~

(b) Any interested person may request that the designated agency revoke the patient's provisional discharge. Any person making a request shall provide the designated agency with a written report setting forth the specific facts, including witnesses, dates and locations, supporting a revocation, demonstrating that every effort has been made to avoid revocation and that revocation is the least restrictive alternative available.

Sec. 74. Minnesota Statutes 2018, section 253B.15, subdivision 3, is amended to read:

Subd. 3. **Procedure; notice.** Revocation shall be commenced by the designated agency's written notice of intent to revoke provisional discharge given or sent to the patient, the patient's attorney, ~~and~~ the ~~treatment~~ facility or program from which the patient was provisionally discharged, and the current community services provider. The notice shall set forth the grounds upon which the intention to revoke is based, and shall inform the patient of the rights of a patient under this chapter.

Sec. 75. Minnesota Statutes 2018, section 253B.15, subdivision 3a, is amended to read:

Subd. 3a. **Report to the court.** Within 48 hours, excluding weekends and legal holidays, of giving notice to the patient, the designated agency shall file with the court a copy of the notice and a report setting forth the specific facts, including witnesses, dates and locations, which (1) support revocation, (2) demonstrate that revocation is the least restrictive alternative available, and (3) show that specific efforts were made to avoid revocation. The designated agency shall provide copies of the report to the patient, the patient's attorney, the county attorney, and the treatment facility or program from which the patient was provisionally discharged within 48 hours of giving notice to the patient under subdivision 3.

Sec. 76. Minnesota Statutes 2018, section 253B.15, subdivision 3b, is amended to read:

Subd. 3b. **Review.** The patient or patient's attorney may request judicial review of the intended revocation by filing a petition for review and an affidavit with the committing court. The affidavit shall state specific grounds for opposing the revocation. If the patient does not file a petition for review within five days of receiving the notice under subdivision 3, revocation of the provisional discharge is final and the court, without hearing, may order the patient into a ~~treatment~~ facility or program from which the patient was provisionally discharged, another facility or program that consents to receive the patient, or more intensive community treatment. If the patient files a petition for review, the court shall review the petition and determine whether a genuine issue exists as to the propriety of the revocation. The burden of proof is on the designated agency to show that no genuine issue exists as to the propriety of the revocation. If the court finds that no genuine issue exists as to the propriety of the revocation, the revocation of the provisional discharge is final.

Sec. 77. Minnesota Statutes 2018, section 253B.15, subdivision 3c, is amended to read:

Subd. 3c. **Hearing.** (a) If the court finds under subdivision 3b that a genuine issue exists as to the propriety of the revocation, the court shall hold a hearing on the petition within three days after the patient files the petition. The court may continue the review hearing for an additional five days upon any party's showing of good cause. At the hearing, the burden of proof is on the designated agency to show a factual basis for the revocation. At the conclusion of the hearing, the court shall make specific findings of fact. The court shall affirm the revocation if it finds:

(1) a factual basis for revocation due to:

(i) a violation of the material conditions of the provisional discharge that creates a need for the patient to return to a more restrictive setting or more intensive community services; or

(ii) a probable danger of harm to the patient or others if the provisional discharge is not revoked; and

(2) that revocation is the least restrictive alternative available.

(b) If the court does not affirm the revocation, the court shall order the patient returned to provisional discharge status.

Sec. 78. Minnesota Statutes 2018, section 253B.15, subdivision 5, is amended to read:

Subd. 5. **Return to facility.** When the designated agency gives or sends notice of the intent to revoke a patient's provisional discharge, it may also apply to the committing court for an order directing that the patient be returned to ~~a~~ the facility or program from which the patient was provisionally discharged or another facility or program that consents to receive the patient. The court may order the patient returned to a facility or program prior to a review hearing only upon finding that immediate return ~~to a facility~~ is necessary because there is a serious likelihood that the safety of the patient or others will be jeopardized, in that (1) the patient's need for food, clothing, shelter, or medical care is not being met, or will not be met in the near future, or (2) the patient has attempted or threatened to seriously harm self or others. If a voluntary return is not arranged, the head of the ~~treatment~~ facility or program may request a health officer or a peace officer to return the patient to the ~~treatment~~ facility or program from which the patient was released or to any other ~~treatment~~ facility ~~which~~ or program that consents to receive the patient. If necessary, the head of the ~~treatment~~ facility or program may request the committing court to direct a health officer or peace officer in the county where the patient is located to return the patient to the ~~treatment~~ facility or program or to another ~~treatment~~ facility ~~which~~ or program that consents to receive the patient. The expense of returning the patient to a ~~regional~~ state-operated treatment ~~center~~ program shall be paid by the commissioner unless paid by the patient or the patient's relatives. If the court orders the patient to return to the ~~treatment~~ facility or program, or if a health officer or peace officer returns the patient to the ~~treatment~~ facility or program, and the patient wants judicial review of the revocation, the patient or the patient's attorney must file the petition for review and affidavit required under subdivision 3b within 14 days of receipt of the notice of the intent to revoke.

Sec. 79. Minnesota Statutes 2018, section 253B.15, subdivision 7, is amended to read:

Subd. 7. **Modification and extension of provisional discharge.** (a) A provisional discharge may be modified upon agreement of the parties.

(b) A provisional discharge may be extended only in those circumstances where the patient has not achieved the goals set forth in the provisional discharge plan or continues to need the supervision or assistance provided by an extension of the provisional discharge. In determining whether the provisional discharge is to be extended, the ~~head of the facility~~ designated agency shall consider the willingness and ability of the patient to voluntarily obtain needed care and treatment.

~~(c) The designated agency shall recommend extension of a provisional discharge only after a preliminary conference with the patient and other appropriate persons. The patient shall be given the opportunity to object or make suggestions for alternatives to extension.~~

~~(d)~~ (c) Any ~~recommendation for~~ proposed extension shall be ~~made~~ provided in writing ~~to the head of the facility and~~ to the patient and the patient's attorney at least 30 days prior to the expiration of the provisional discharge unless the patient cannot be located or is unavailable to receive the notice. The ~~written recommendation submitted~~ proposal for extension shall include: the specific grounds for ~~recommending~~ proposing the extension, ~~the date of the preliminary conference and results,~~ the anniversary date of the provisional discharge, the termination date of the provisional discharge, and the proposed length of extension. If the grounds for ~~recommending~~ proposing the extension occur less than 30 days before its expiration, the written ~~recommendation~~ proposal for extension shall occur as soon as practicable.

~~(e) The head of the facility~~ (d) The designated agency shall extend a provisional discharge only after providing the patient an opportunity for a meeting to object or make suggestions for alternatives to an extension. The designated agency shall ~~issue~~ provide a written decision to the patient and the patient's attorney regarding extension within five days after receiving ~~the recommendation from the designated agency~~ input from or holding a meeting with the patient or after the patient has declined to provide input or participate in the meeting. Input may be sought from the community-based treatment team or other appropriate persons chosen by the patient.

Sec. 80. Minnesota Statutes 2018, section 253B.15, is amended by adding a subdivision to read:

Subd. 8a. **Provisional discharge extension.** If the provisional discharge extends until the end of the period of commitment and, before the commitment expires, the court extends the commitment under section 253B.12 or issues a new commitment order under section 253B.13, the provisional discharge shall continue for the duration of the new or extended period of commitment ordered unless the commitment order provides otherwise or the provisional discharge is revoked pursuant to this section. Continuation of the provisional discharge under this subdivision does not require compliance with the procedures in subdivision 7.

Sec. 81. Minnesota Statutes 2018, section 253B.15, subdivision 9, is amended to read:

Subd. 9. **Expiration of provisional discharge.** (a) Except as otherwise provided, a provisional discharge is absolute when it expires. If, while on provisional discharge or extended provisional discharge, a patient is discharged as provided in section 253B.16, the discharge shall be absolute.

(b) Notice of the expiration of the provisional discharge shall be given by the ~~head of the treatment facility~~ designated agency to the committing court; the petitioner, if known; the patient's attorney; the county attorney in the county of commitment; ~~the commissioner;~~ and the ~~designated agency~~ facility or program from which the patient was provisionally discharged.

Sec. 82. Minnesota Statutes 2018, section 253B.15, subdivision 10, is amended to read:

Subd. 10. **Voluntary return.** (a) With the consent of the head of the ~~treatment~~ facility or program, a patient may voluntarily return to inpatient status ~~at the treatment facility~~ as follows:

(1) as a voluntary patient, in which case the patient's commitment is discharged;

(2) as a committed patient, in which case the patient's provisional discharge is voluntarily revoked; or

(3) on temporary return from provisional discharge, in which case both the commitment and the provisional discharge remain in effect.

(b) Prior to readmission, the patient shall be informed of status upon readmission.

Sec. 83. Minnesota Statutes 2018, section 253B.16, is amended to read:

253B.16 DISCHARGE OF COMMITTED PERSONS.

Subdivision 1. **Date.** The head of a ~~treatment~~ facility or program shall discharge any patient admitted as a person ~~who is mentally ill or chemically dependent, or a person with a~~ posing a risk of harm due to mental illness, or a person who has a chemical dependency or a developmental disability ~~admitted under Minnesota Rules of Criminal Procedure, rules 20.01 and 20.02, to the secure bed component of the Minnesota extended treatment options~~ when the head of the facility or program certifies that the person is no longer in need of care and treatment under commitment or at the conclusion of any period of time specified in the commitment order, whichever occurs first. The head of a ~~treatment~~ facility or program shall discharge any person admitted as ~~developmentally disabled, except those admitted under Minnesota Rules of Criminal Procedure, rules 20.01 and 20.02, to the secure bed component of the Minnesota extended treatment options,~~ a person with a developmental disability when that person's screening team has determined, under section 256B.092, subdivision 8, that the person's needs can be met by services provided in the community and a plan has been developed in consultation with the interdisciplinary team to place the person in the available community services.

Subd. 2. **Notification of discharge.** Prior to the discharge or provisional discharge of any committed ~~person~~ patient, the head of the ~~treatment~~ facility or program shall notify the designated agency and the patient's spouse or health care agent, or if there is no spouse or health care agent, then an adult child, or if there is none, the next of kin of the patient, of the proposed discharge. The notice shall be sent ~~to the last known address of the person to be notified by certified mail with return receipt. The notice~~ in writing and shall include the following: (1) the proposed date of discharge or provisional discharge; (2) the date, time and place of the meeting of the staff who have been treating the patient to discuss discharge and discharge planning; (3) the fact that the patient will be present at the meeting; and (4) the fact that the next of kin or health care agent may attend that staff meeting and present any information relevant to the discharge of the patient. ~~The notice shall be sent at least one week prior to the date set for the meeting.~~

Sec. 84. Minnesota Statutes 2018, section 253B.17, is amended to read:

253B.17 RELEASE; JUDICIAL DETERMINATION.

Subdivision 1. **Petition.** Any patient, except one committed as a sexually dangerous person or a person with a sexual psychopathic personality or as a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public as provided in section 253B.18,

subdivision 3, 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 care and treatment under commitment or for an order that an individual is no longer a person ~~who is mentally ill, developmentally disabled, or chemically dependent~~ posing a risk of harm due to mental illness, or a person who has a developmental disability or chemical dependency, or for any other relief. A patient committed as a person ~~who is mentally ill or mentally ill and~~ posing a risk of harm due to mental illness, a person who has a mental illness and is dangerous ~~or~~ to the public, a sexually dangerous person, or a person with a sexual psychopathic personality may petition the committing court or the court to which venue has been transferred for a hearing concerning the administration of ~~neuroleptic~~ psychotropic medication.

Subd. 2. **Notice of hearing.** Upon the filing of the petition, the court shall fix the time and place for the hearing on it. Ten days' notice of the hearing shall be given to the county attorney, the patient, patient's counsel, the person who filed the initial commitment petition, the head of the ~~treatment~~ facility or program to which the person is committed, and other persons as the court directs. Any person may oppose the petition.

Subd. 3. **Court-appointed examiners.** The court shall appoint ~~an~~ a court-appointed examiner and, at the patient's request, shall appoint a second court-appointed examiner of the patient's choosing to be paid for by the county at a rate of compensation to be fixed by the court. Unless otherwise agreed by the parties, ~~the examiners~~ a court-appointed examiner shall file a report with the court not less than 48 hours prior to the hearing under this section.

Subd. 4. **Evidence.** The patient, patient's counsel, the petitioner, and the county attorney shall be entitled to be present at the hearing and to present and cross-examine witnesses, including court-appointed examiners. The court may hear any relevant testimony and evidence ~~which is~~ offered at the hearing.

Subd. 5. **Order.** Upon completion of the hearing, the court shall enter an order stating its findings and decision and mail ~~it~~ the order to the head of the ~~treatment~~ facility or program.

Sec. 85. Minnesota Statutes 2018, section 253B.18, subdivision 1, is amended to read:

Subdivision 1. **Procedure.** (a) Upon the filing of a petition alleging that a proposed patient is a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public, the court shall hear the petition as provided in sections 253B.07 and 253B.08. If the court finds by clear and convincing evidence that the proposed patient is a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public, it shall commit the person to a secure treatment facility or to a ~~treatment~~ facility or program willing to accept the patient

under commitment. The court shall commit the patient to a secure treatment facility unless the patient ~~establishes~~ or others establish by clear and convincing evidence that a less restrictive state-operated treatment program or treatment ~~program~~ facility is available that is consistent with the patient's treatment needs and the requirements of public safety. In any case where the petition was filed immediately following the acquittal of the proposed patient for a crime against the person pursuant to a verdict of not guilty by reason of mental illness, the verdict constitutes evidence that the proposed patient is a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public within the meaning of this section. The proposed patient has the burden of going forward in the presentation of evidence. The standard of proof remains as required by this chapter. Upon commitment, admission procedures shall be carried out pursuant to section 253B.10.

(b) Once a patient is admitted to a ~~treatment~~ facility or program pursuant to a commitment under this subdivision, treatment must begin regardless of whether a review hearing will be held under subdivision 2.

Sec. 86. Minnesota Statutes 2018, section 253B.18, subdivision 2, is amended to read:

Subd. 2. **Review; hearing.** (a) A written treatment report shall be filed by the ~~treatment~~ facility or program with the committing court within 60 days after commitment. If the person is in the custody of the commissioner of corrections when the initial commitment is ordered under subdivision 1, the written treatment report must be filed within 60 days after the person is admitted to ~~a secure~~ the state-operated treatment program or treatment facility. The court shall hold a hearing to make a final determination as to whether the ~~person~~ patient should remain committed as a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public. The hearing shall be held within the earlier of 14 days of the court's receipt of the written treatment report, or within 90 days of the date of initial commitment or admission, unless otherwise agreed by the parties.

(b) The court may, with agreement of the county attorney and the patient's attorney ~~for the patient~~:

(1) waive the review hearing under this subdivision and immediately order an indeterminate commitment under subdivision 3; or

(2) continue the review hearing for up to one year.

(c) If the court finds that the patient should be committed as a person ~~who is mentally ill~~ posing a risk of harm due to mental illness, but not as a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public, the court may commit the ~~person~~ patient

as a person ~~who is mentally ill~~ posing a risk of harm due to mental illness and the ~~person~~ patient shall be deemed not to have been found to be dangerous to the public for the purposes of subdivisions 4a to 15. Failure of the ~~treatment~~ facility or program to provide the required treatment report at the end of the 60-day period shall not result in automatic discharge of the patient.

Sec. 87. Minnesota Statutes 2018, section 253B.18, subdivision 3, is amended to read:

Subd. 3. **Indeterminate commitment.** If the court finds at the final determination hearing held pursuant to subdivision 2 that the patient continues to be a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public, then the court shall order commitment of the proposed patient for an indeterminate period of time. After a final determination that a patient is a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public, the patient shall be transferred, provisionally discharged or discharged, only as provided in this section.

Sec. 88. Minnesota Statutes 2018, section 253B.18, subdivision 4a, is amended to read:

Subd. 4a. **Release on pass; notification.** A patient who has been committed as a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public and who is confined at a secure treatment facility or has been transferred out of a ~~state-operated services~~ secure treatment facility according to section 253B.18, subdivision 6, shall not be released on a pass unless the pass is part of a pass plan that has been approved by the medical director of the secure treatment facility. The pass plan must have a specific therapeutic purpose consistent with the treatment plan, must be established for a specific period of time, and must have specific levels of liberty delineated. The county case manager must be invited to participate in the development of the pass plan. At least ten days prior to a determination on the plan, the medical director shall notify the designated agency, the committing court, the county attorney of the county of commitment, an interested person, the local law enforcement agency where the facility is located, the county attorney and the local law enforcement agency in the location where the pass is to occur, the petitioner, and the petitioner's counsel of the plan, the nature of the passes proposed, and their right to object to the plan. If any notified person objects prior to the proposed date of implementation, the person shall have an opportunity to appear, personally or in writing, before the medical director, within ten days of the objection, to present grounds for opposing the plan. The pass plan shall not be implemented until the objecting person has been furnished that opportunity. Nothing in this subdivision shall be construed to give a patient an affirmative right to a pass plan.

Sec. 89. Minnesota Statutes 2018, section 253B.18, subdivision 4b, is amended to read:

Subd. 4b. **Pass-eligible status; notification.** (a) The following patients committed to a secure treatment facility shall not be placed on pass-eligible status unless that status has been approved by the medical director of the secure treatment facility:

~~(a)~~ (1) a patient who has been committed as a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public and who:

~~(1)~~ (i) was found incompetent to proceed to trial for a felony or was found not guilty by reason of mental illness of a felony immediately prior to the filing of the commitment petition;

~~(2)~~ (ii) was convicted of a felony immediately prior to or during commitment as a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public; or

~~(3)~~ (iii) is subject to a commitment to the commissioner of corrections; and

~~(b)~~ (2) a patient who has been committed as a psychopathic personality, a sexually psychopathic personality, or a sexually dangerous person.

(b) At least ten days prior to a determination on the status, the medical director shall notify the committing court, the county attorney of the county of commitment, the designated agency, an interested person, the petitioner, and the petitioner's counsel of the proposed status, and their right to request review by the special review board. If within ten days of receiving notice any notified person requests review by filing a notice of objection with the commissioner and the head of the secure treatment facility, a hearing shall be held before the special review board. The proposed status shall not be implemented unless it receives a favorable recommendation by a majority of the board and approval by the commissioner. The order of the commissioner is appealable as provided in section 253B.19.

(c) Nothing in this subdivision shall be construed to give a patient an affirmative right to seek pass-eligible status from the special review board.

Sec. 90. Minnesota Statutes 2018, section 253B.18, subdivision 4c, is amended to read:

Subd. 4c. **Special review board.** (a) The commissioner shall establish one or more panels of a special review board. The board shall consist of three members experienced in the field of mental illness. One member of each special review board panel shall be a psychiatrist or a doctoral level psychologist with forensic experience and one member shall be an attorney. No member shall be affiliated with the Department of Human Services. The special review board shall meet at least every six months and at the call of the commissioner.

It shall hear and consider all petitions for a reduction in custody or to appeal a revocation of provisional discharge. A "reduction in custody" means transfer from a secure treatment facility, discharge, and provisional discharge. Patients may be transferred by the commissioner between secure treatment facilities without a special review board hearing.

Members of the special review board shall receive compensation and reimbursement for expenses as established by the commissioner.

(b) The special review board must review each denied petition under subdivision 5 for barriers and obstacles preventing the patient from progressing in treatment. Based on the cases before the board in the previous year, the special review board shall provide to the commissioner an annual summation of the barriers to treatment progress, and recommendations to achieve the common goal of making progress in treatment.

(c) A petition filed by a person committed as ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public under this section must be heard as provided in subdivision 5 and, as applicable, subdivision 13. A petition filed by a person committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253D, or committed as both ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public under this section and as a sexual psychopathic personality or as a sexually dangerous person must be heard as provided in section 253D.27.

Sec. 91. Minnesota Statutes 2018, section 253B.18, subdivision 5, is amended to read:

Subd. 5. **Petition; notice of hearing; attendance; order.** (a) A petition for a reduction in custody or revocation of provisional discharge shall be filed with the commissioner and may be filed by the patient or by the head of the ~~treatment~~ facility or program to which the person was committed or has been transferred. A patient may not petition the special review board for six months following commitment under subdivision 3 or following the final disposition of any previous petition and subsequent appeal by the patient. The head of the state-operated treatment program or head of the treatment facility must schedule a hearing before the special review board for any patient who has not appeared before the special review board in the previous three years, and schedule a hearing at least every three years thereafter. The medical director may petition at any time.

(b) Fourteen days prior to the hearing, the committing court, the county attorney of the county of commitment, the designated agency, interested person, the petitioner, and the petitioner's counsel shall 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 may designate interested persons to receive notice by providing the names and addresses to the commissioner at least 21 days before the hearing. The board shall provide the commissioner with written findings of fact and recommendations within 21 days of the hearing. The commissioner shall issue an order no later than 14 days after receiving the recommendation of the special review board. A copy of the order shall be mailed to every person entitled to statutory notice of the hearing within five days after ~~it~~ the order is signed. No order by the commissioner shall be effective sooner than 30 days after the order is signed, unless the county attorney, the patient, and the commissioner agree that it may become effective sooner.

(c) The special review board shall hold a hearing on each petition prior to making its recommendation to the commissioner. The special review board proceedings are not contested cases as defined in chapter 14. Any person or agency receiving notice that submits documentary evidence to the special review board prior to the hearing shall also provide copies to the patient, the patient's counsel, the county attorney of the county of commitment, the case manager, and the commissioner.

(d) Prior to the final decision by the commissioner, the special review board may be reconvened to consider events or circumstances that occurred subsequent to the hearing.

(e) In making their recommendations and order, the special review board and commissioner must consider any statements received from victims under subdivision 5a.

Sec. 92. Minnesota Statutes 2018, section 253B.18, subdivision 5a, is amended to read:

Subd. 5a. **Victim notification of petition and release; right to submit statement.** (a) As used in this subdivision:

(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 253D.02, subdivision 8, 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 chapter 253D; 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 chapter 253D that an act or acts constituting a crime occurred.

(b) A county attorney who files a petition to commit a person under this section or chapter 253D 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 from a state-operated treatment program or treatment facility, the head of the state-operated treatment program or head of the treatment facility 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 medical director, special review board, or commissioner 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 through the Department of Corrections electronic victim notification system, or by contacting, in writing, the county attorney in the county where the conviction for the crime occurred. A request for notice under this subdivision received by the commissioner of corrections through the Department of Corrections electronic victim notification system shall be promptly forwarded to the prosecutorial authority with jurisdiction over the offense to which the notice relates or, following commitment, the head of the state-operated treatment program or head of the treatment facility. A county attorney who receives a request for notification under this paragraph following commitment shall promptly forward the request to the commissioner of human services.

(e) The rights under this subdivision are in addition to rights available to a victim under chapter 611A. This provision does not give a victim all the rights of a "notified person" or a person "entitled to statutory notice" under subdivision 4a, 4b, or 5 or section 253D.14.

Sec. 93. Minnesota Statutes 2018, section 253B.18, subdivision 6, is amended to read:

Subd. 6. **Transfer.** (a) A patient who is ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public shall not be transferred out of a secure treatment facility unless it appears to the satisfaction of the commissioner, after a hearing and favorable recommendation by a majority of the special review board, that the transfer is appropriate. Transfer may be to ~~other regional centers~~ a state-operated treatment program under the commissioner's control. In those instances where a commitment also exists to the Department of Corrections, transfer may be to a facility designated by the commissioner of corrections.

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

(1) the person's clinical progress and present treatment needs;

(2) the need for security to accomplish continuing treatment;

(3) the need for continued institutionalization;

(4) which facility can best meet the person's needs; and

(5) whether transfer can be accomplished with a reasonable degree of safety for the public.

Sec. 94. Minnesota Statutes 2018, section 253B.18, subdivision 7, is amended to read:

Subd. 7. **Provisional discharge.** (a) A patient who is ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public shall not be provisionally discharged unless it appears to the satisfaction of the commissioner, after a hearing and a favorable recommendation by a majority of the special review board, that the patient 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 course of hospitalization and present mental status indicate there is no longer a need for treatment and supervision in the patient'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 to adjust successfully to the community.

Sec. 95. Minnesota Statutes 2018, section 253B.18, subdivision 8, is amended to read:

Subd. 8. **Provisional discharge plan.** A provisional discharge plan shall be developed, implemented, and monitored by the designated agency in conjunction with the patient, the

~~treatment~~ facility or program to which the person is committed, and other appropriate persons. The designated agency shall, at least quarterly, review the provisional discharge plan with the patient and submit a written report to ~~the commissioner and~~ the ~~treatment~~ facility or program concerning the patient's status and compliance with each term of the provisional discharge plan.

Sec. 96. Minnesota Statutes 2018, section 253B.18, subdivision 10, is amended to read:

Subd. 10. **Provisional discharge; revocation.** (a) The head of the ~~treatment~~ facility or program from which the person was provisionally discharged may revoke a provisional discharge if any of the following grounds exist:

(i) the patient has departed from the conditions of the provisional discharge plan;

(ii) the patient is exhibiting signs of a mental illness which may require in-hospital evaluation or treatment; or

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

(b) Revocation shall be commenced by a notice of intent to revoke provisional discharge, which shall be served upon the patient, patient's counsel, and the designated agency. The notice shall set forth the grounds upon which the intention to revoke is based, and shall inform the patient of the rights of a patient under this chapter.

(c) In all nonemergency situations, prior to revoking a provisional discharge, the head of the ~~treatment~~ facility or program shall obtain a revocation report from the designated agency outlining the specific reasons for recommending the revocation, including but not limited to the specific facts upon which the revocation recommendation is based.

(d) The patient must be provided a copy of the revocation report and informed orally and in writing of the rights of a patient under this section.

Sec. 97. Minnesota Statutes 2018, section 253B.18, subdivision 11, is amended to read:

Subd. 11. **Exceptions.** If an emergency exists, the head of the ~~treatment~~ facility or program may revoke the provisional discharge and, either orally or in writing, order that the patient be immediately returned to the ~~treatment~~ facility or program. In emergency cases, a revocation report ~~documenting reasons for revocation~~ shall be submitted by the designated agency within seven days after the patient is returned to the ~~treatment~~ facility or program.

Sec. 98. Minnesota Statutes 2018, section 253B.18, subdivision 12, is amended to read:

Subd. 12. **Return of patient.** After revocation of a provisional discharge or if the patient is absent without authorization, the head of the ~~treatment~~ facility or program may request the patient to return to the ~~treatment~~ facility or program voluntarily. The head of the facility or program may request a health officer~~, a welfare officer,~~ or a peace officer to return the patient to the ~~treatment~~ facility or program. If a voluntary return is not arranged, the head of the ~~treatment~~ facility or program shall inform the committing court of the revocation or absence and the court shall direct a health or peace officer in the county where the patient is located to return the patient to the ~~treatment~~ facility or program or to another state-operated treatment program or treatment facility. The expense of returning the patient to a ~~regional~~ state-operated treatment ~~center~~ program shall be paid by the commissioner unless paid by the patient or other persons on the patient's behalf.

Sec. 99. Minnesota Statutes 2018, section 253B.18, subdivision 14, is amended to read:

Subd. 14. **Voluntary readmission.** (a) With the consent of the head of the ~~treatment~~ facility or program, a patient may voluntarily return from provisional discharge for a period of up to 30 days, or up to 60 days with the consent of the designated agency. If the patient is not returned to provisional discharge status within 60 days, the provisional discharge is revoked. Within 15 days of receiving notice of the change in status, the patient may request a review of the matter before the special review board. The board may recommend a return to a provisional discharge status.

(b) The ~~treatment~~ facility or program is not required to petition for a further review by the special review board unless the patient's return to the community results in substantive change to the existing provisional discharge plan. All the terms and conditions of the provisional discharge order shall remain unchanged if the patient is released again.

Sec. 100. Minnesota Statutes 2018, section 253B.18, subdivision 15, is amended to read:

Subd. 15. **Discharge.** (a) A patient who is ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public shall not be discharged unless it appears to the satisfaction of the commissioner, after a hearing and a favorable recommendation by a majority of the special review board, that the patient is capable of making an acceptable adjustment to open society, is no longer dangerous to the public, and is no longer in need of treatment and supervision.

(b) In determining whether a discharge shall be recommended, the special review board and commissioner shall consider whether specific conditions exist to provide a reasonable

degree of protection to the public and to assist the patient in adjusting to the community. If the desired conditions do not exist, the discharge shall not be granted.

Sec. 101. Minnesota Statutes 2018, section 253B.19, subdivision 2, is amended to read:

Subd. 2. **Petition; hearing.** (a) A ~~person~~ patient committed as ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public under section 253B.18, or the county attorney of the county from which the ~~person~~ patient 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) For an appeal under paragraph (a), 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 or program to which the patient was committed, 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.

(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~~ a person who has a mental illness and is dangerous to the public, 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 court 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, must establish by a preponderance of the evidence that the transfer is appropriate.

Sec. 102. Minnesota Statutes 2018, section 253B.20, subdivision 1, is amended to read:

Subdivision 1. **Notice to court.** When a committed person is discharged, provisionally discharged, transferred to another ~~treatment~~ facility~~, or partially hospitalized~~ or program, or when the ~~person~~ patient dies, is absent without authorization, or is returned, the ~~treatment~~ facility or program having custody of the patient shall notify the committing court, the county attorney, and the patient's attorney.

Sec. 103. Minnesota Statutes 2018, section 253B.20, subdivision 2, is amended to read:

Subd. 2. **Necessities.** The ~~head of the~~ state-operated treatment ~~facility~~ program shall make necessary arrangements at the expense of the state to insure that no patient is discharged or provisionally discharged without suitable clothing. The head of the state-operated treatment ~~facility~~ program shall, if necessary, provide the patient with a sufficient sum of money to secure transportation home, or to another destination of the patient's choice, if the destination is located within a reasonable distance of the state-operated treatment ~~facility~~ program. The commissioner shall establish procedures by rule to help the patient receive all public assistance benefits provided by state or federal law to which the patient is entitled by residence and circumstances. The rule shall be uniformly applied in all counties. All counties shall provide temporary relief whenever necessary to meet the intent of this subdivision.

Sec. 104. Minnesota Statutes 2018, section 253B.20, subdivision 3, is amended to read:

Subd. 3. **Notice to designated agency.** The head of the ~~treatment~~ facility or program, upon the provisional discharge of any committed person, shall notify the designated agency before the patient leaves the ~~treatment~~ facility or program. Whenever possible the notice shall be given at least one week before the patient is to leave the facility or program.

Sec. 105. Minnesota Statutes 2018, section 253B.20, subdivision 4, is amended to read:

Subd. 4. **Aftercare services.** Prior to the date of discharge or provisional discharge of any committed person, the designated agency of the county of financial responsibility, in cooperation with the head of the ~~treatment~~ facility or program, and the patient's physician, if notified pursuant to subdivision 6, shall establish a continuing plan of aftercare services

for the patient including a plan for medical and psychiatric treatment, nursing care, vocational assistance, and other assistance the patient needs. The designated agency shall provide case management services, supervise and assist the patient in finding employment, suitable shelter, and adequate medical and psychiatric treatment, and aid in the patient's readjustment to the community.

Sec. 106. Minnesota Statutes 2018, section 253B.20, subdivision 6, is amended to read:

Subd. 6. **Notice to physician.** The head of the ~~treatment~~ facility or program shall notify the physician of any committed person at the time of the patient's discharge or provisional discharge, unless the patient objects to the notice.

Sec. 107. Minnesota Statutes 2018, section 253B.21, subdivision 1, is amended to read:

Subdivision 1. **Administrative procedures.** If the patient is entitled to care by any agency of the United States in this state, the commitment warrant shall be in triplicate, committing the patient to the joint custody of the head of the ~~treatment~~ facility or program and the federal agency. If the federal agency is unable or unwilling to receive the patient at the time of commitment, the patient may subsequently be transferred to it upon its request.

Sec. 108. Minnesota Statutes 2018, section 253B.21, subdivision 2, is amended to read:

Subd. 2. **Applicable regulations.** Any person, when admitted to an institution of a federal agency within or without this state, shall be subject to the rules and regulations of the federal agency, except that nothing in this section shall deprive any person of rights secured to patients of ~~state~~ state-operated treatment programs, treatment facilities, and community-based treatment programs by this chapter.

Sec. 109. Minnesota Statutes 2018, section 253B.21, subdivision 3, is amended to read:

Subd. 3. **Powers.** The chief officer of any treatment facility operated by a federal agency to which any person is admitted shall have the same powers as the heads of ~~treatment facilities~~ state-operated treatment programs within this state with respect to admission, retention of custody, transfer, parole, or discharge of the committed person.

Sec. 110. Minnesota Statutes 2018, section 253B.212, subdivision 1, is amended to read:

Subdivision 1. **Cost of care; commitment by tribal court order; Red Lake Band of Chippewa Indians.** The commissioner of human services may contract with and receive payment from the Indian Health Service of the United States Department of Health and

Human Services for the care and treatment of those members of the Red Lake Band of Chippewa Indians who have been committed by tribal court order to the Indian Health Service for care and treatment of mental illness, developmental disability, or chemical dependency. The contract shall provide that the Indian Health Service may not transfer any person for admission to a ~~regional center~~ state-operated treatment program unless the commitment procedure utilized by the tribal court provided due process protections similar to those afforded by sections ~~253B.05~~ 253B.051 to 253B.10.

Sec. 111. Minnesota Statutes 2018, section 253B.212, subdivision 1a, is amended to read:

Subd. 1a. **Cost of care; commitment by tribal court order; White Earth Band of Ojibwe Indians.** The commissioner of human services may contract with and receive payment from the Indian Health Service of the United States Department of Health and Human Services for the care and treatment of those members of the White Earth Band of Ojibwe Indians who have been committed by tribal court order to the Indian Health Service for care and treatment of mental illness, developmental disability, or chemical dependency. The tribe may also contract directly with the commissioner for treatment of those members of the White Earth Band who have been committed by tribal court order to the White Earth Department of Health for care and treatment of mental illness, developmental disability, or chemical dependency. The contract shall provide that the Indian Health Service and the White Earth Band shall not transfer any person for admission to a ~~regional center~~ state-operated treatment program unless the commitment procedure utilized by the tribal court provided due process protections similar to those afforded by sections ~~253B.05~~ 253B.051 to 253B.10.

Sec. 112. Minnesota Statutes 2018, section 253B.212, subdivision 1b, is amended to read:

Subd. 1b. **Cost of care; commitment by tribal court order; any federally recognized Indian tribe within the state of Minnesota.** The commissioner of human services may contract with and receive payment from the Indian Health Service of the United States Department of Health and Human Services for the care and treatment of those members of any federally recognized Indian tribe within the state, who have been committed by tribal court order to the Indian Health Service for care and treatment of mental illness, developmental disability, or chemical dependency. The tribe may also contract directly with the commissioner for treatment of those members of any federally recognized Indian tribe within the state who have been committed by tribal court order to the respective tribal Department of Health for care and treatment of mental illness, developmental disability, or chemical dependency. The contract shall provide that the Indian Health Service and any

federally recognized Indian tribe within the state shall not transfer any person for admission to a ~~regional center~~ state-operated treatment program unless the commitment procedure utilized by the tribal court provided due process protections similar to those afforded by sections ~~253B.05~~ 253B.051 to 253B.10.

Sec. 113. Minnesota Statutes 2018, section 253B.212, subdivision 2, is amended to read:

Subd. 2. **Effect given to tribal commitment order.** (a) When, under an agreement entered into pursuant to subdivision 1, 1a, or 1b, the Indian Health Service or the placing tribe applies to a ~~regional center~~ state-operated treatment program for admission of a person committed to the jurisdiction of the health service by the tribal court ~~as a person who is mentally ill, developmentally disabled, or chemically dependent~~ due to mental illness, developmental disability, or chemical dependency, the commissioner may treat the patient with the consent of the Indian Health Service or the placing tribe.

(b) A person admitted to a ~~regional center~~ state-operated treatment program pursuant to this section has all the rights accorded by section 253B.03. In addition, treatment reports, prepared in accordance with the requirements of section 253B.12, subdivision 1, shall be filed with the Indian Health Service or the placing tribe within 60 days of commencement of the patient's stay at the ~~facility~~ program. A subsequent treatment report shall be filed with the Indian Health Service or the placing tribe within six months of the patient's admission to the ~~facility~~ program or prior to discharge, whichever comes first. Provisional discharge or transfer of the patient may be authorized by the head of the ~~treatment facility~~ program only with the consent of the Indian Health Service or the placing tribe. Discharge from the ~~facility~~ program to the Indian Health Service or the placing tribe may be authorized by the head of the ~~treatment facility~~ program after notice to and consultation with the Indian Health Service or the placing tribe.

Sec. 114. Minnesota Statutes 2018, section 253B.22, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The commissioner shall establish a review board of three or more persons for ~~each regional center~~ the Anoka-Metro Regional Treatment Center, Minnesota Security Hospital, and Minnesota sex offender program to review the admission and retention of ~~its~~ patients of that program receiving services under this chapter. One member shall be qualified in the diagnosis of mental illness, developmental disability, or chemical dependency, and one member shall be an attorney. The commissioner may, upon written request from the appropriate federal authority, establish a review panel for any federal treatment facility within the state to review the admission and retention of patients

hospitalized under this chapter. For any review board established for a federal treatment facility, one of the persons appointed by the commissioner shall be the commissioner of veterans affairs or the commissioner's designee.

Sec. 115. Minnesota Statutes 2018, section 253B.22, subdivision 2, is amended to read:

Subd. 2. **Right to appear.** Each ~~treatment facility~~ program specified in subdivision 1 shall be visited by the review board at least once every six months. Upon request each patient in the ~~treatment facility~~ program shall have the right to appear before the review board during the visit.

Sec. 116. Minnesota Statutes 2018, section 253B.22, subdivision 3, is amended to read:

Subd. 3. **Notice.** The head of ~~the treatment facility~~ each program specified in subdivision 1 shall notify each patient at the time of admission by a simple written statement of the patient's right to appear before the review board and the next date when the board will visit ~~the treatment facility~~ that program. A request to appear before the board need not be in writing. Any employee of the ~~treatment facility~~ program receiving a patient's request to appear before the board shall notify the head of the ~~treatment facility~~ program of the request.

Sec. 117. Minnesota Statutes 2018, section 253B.22, subdivision 4, is amended to read:

Subd. 4. **Review.** The board shall review the admission and retention of patients at ~~its respective treatment facility~~ the program. The board may examine the records of all patients admitted and may examine personally at its own instigation all patients who from the records or otherwise appear to justify reasonable doubt as to continued need of confinement in ~~a treatment facility~~ the program. The review board shall report its findings to the commissioner and to the head of the ~~treatment facility~~ program. The board may also receive reports from patients, interested persons, and ~~treatment facility~~ employees of the program, and investigate conditions affecting the care of patients.

Sec. 118. Minnesota Statutes 2018, section 253B.23, subdivision 1, is amended to read:

Subdivision 1. **Costs of hearings.** (a) In each proceeding under this chapter the court shall allow and order paid to each witness subpoenaed the fees and mileage prescribed by law; to each examiner a reasonable sum for services and for travel; to persons conveying the patient to the place of detention, disbursements for the travel, board, and lodging of the patient and of themselves and their authorized assistants; and to the patient's counsel, when appointed by the court, a reasonable sum for travel and for the time spent in court or in

preparing for the hearing. Upon the court's order, the county auditor shall issue a warrant on the county treasurer for payment of the amounts allowed, excluding the costs of the court-appointed examiner, which must be paid by the state courts.

(b) Whenever venue of a proceeding has been transferred under this chapter, the costs of the proceedings shall be reimbursed to the county where the proceedings were conducted by the county of financial responsibility.

Sec. 119. Minnesota Statutes 2018, section 253B.23, subdivision 1b, is amended to read:

Subd. 1b. **Responsibility for conducting prepetition screening and filing commitment ~~and early intervention~~ petitions.** (a) The county of financial responsibility is responsible to conduct prepetition screening pursuant to section 253B.07, subdivision 1, and, if statutory conditions for ~~early intervention or~~ commitment are satisfied, to file a petition pursuant to section ~~253B.064, subdivision 1, paragraph (a);~~ 253B.07, subdivision 1, paragraph (a)~~;~~, or 253D.07.

(b) Except in cases under chapter 253D, if the county of financial responsibility refuses or fails to conduct prepetition screening or file a petition, or if it is unclear which county is the county of financial responsibility, the county where the proposed patient is present is responsible to conduct the prepetition screening and, if statutory conditions for ~~early intervention or~~ commitment are satisfied, file the petition.

(c) In cases under chapter 253D, if the county of financial responsibility refuses or fails to file a petition, or if it is unclear which county is the county of financial responsibility, then (1) the county where the conviction for which the person is incarcerated was entered, or (2) the county where the proposed patient is present, if the person is not currently incarcerated based on conviction, is responsible to file the petition if statutory conditions for commitment are satisfied.

(d) When a proposed patient is an inmate confined to an adult correctional facility under the control of the commissioner of corrections and commitment proceedings are initiated or proposed to be initiated pursuant to section 241.69, the county where the correctional facility is located may agree to perform the responsibilities specified in paragraph (a).

(e) Any dispute concerning financial responsibility for the costs of the proceedings and treatment will be resolved pursuant to chapter 256G.

(f) This subdivision and the sections of law cited in this subdivision address venue only. Nothing in this chapter is intended to limit the statewide jurisdiction of district courts over civil commitment matters.

Sec. 120. Minnesota Statutes 2018, section 253B.23, subdivision 2, is amended to read:

Subd. 2. **Legal results of commitment status.** (a) Except as otherwise provided in this chapter and in sections 246.15 and 246.16, no person by reason of commitment or treatment pursuant to this chapter shall be deprived of any legal right, including but not limited to the right to dispose of property, sue and be sued, execute instruments, make purchases, enter into contractual relationships, vote, and hold a driver's license. Commitment or treatment of any patient pursuant to this chapter is not a judicial determination of legal incompetency except to the extent provided in section 253B.03, subdivision 6.

(b) Proceedings for determination of legal incompetency and the appointment of a guardian for a person subject to commitment under this chapter may be commenced before, during, or after commitment proceedings have been instituted and may be conducted jointly with the commitment proceedings. The court shall notify the head of the ~~treatment~~ facility or program to which the patient is committed of a finding that the patient is incompetent.

(c) Where the person to be committed is a minor or owns property of value and it appears to the court that the person is not competent to manage a personal estate, the court shall appoint a general conservator of the person's estate as provided by law.

Sec. 121. Minnesota Statutes 2018, section 253B.24, is amended to read:

253B.24 TRANSMITTAL OF DATA TO NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

When a court:

(1) commits a person under this chapter ~~as being mentally ill, developmentally disabled, mentally ill and dangerous, or chemically dependent~~ due to mental illness, developmental disability, or chemical dependency, or as a person who has a mental illness and is dangerous to the public;

(2) determines in a criminal case that a person is incompetent to stand trial or not guilty by reason of mental illness; or

(3) restores a person's ability to possess a firearm under section 609.165, subdivision 1d, or 624.713, subdivision 4,

the court shall ensure that this information is electronically transmitted within three business days to the National Instant Criminal Background Check System.

Sec. 122. Minnesota Statutes 2018, section 253D.02, subdivision 6, is amended to read:

Subd. 6. **Court examiner.** "Court examiner" has the meaning given in section 253B.02, subdivision ~~7~~ 7a.

Sec. 123. Minnesota Statutes 2018, section 253D.07, subdivision 2, is amended to read:

Subd. 2. **Petition.** Upon the filing of a petition alleging that a proposed respondent is a sexually dangerous person or a person with a sexual psychopathic personality, ~~the court shall hear the petition as provided~~ all of the applicable procedures contained in sections 253B.07 and 253B.08 apply to the commitment proceeding.

Sec. 124. Minnesota Statutes 2018, section 253D.10, subdivision 2, is amended to read:

Subd. 2. **Correctional facilities.** (a) A person who is being petitioned for commitment under 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 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) When a person is temporarily confined in a Department of Corrections facility solely under this subdivision and not based on any separate correctional authority, the commissioner of corrections may charge the county of financial responsibility for the costs of confinement, and the Department of Human Services shall use existing appropriations to fund all remaining nonconfinement costs. The funds received by the commissioner for the confinement and nonconfinement costs are appropriated to the department for these purposes.

~~(c)~~ (d) The committing county may offer a person who is being petitioned for commitment under 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. 125. Minnesota Statutes 2018, section 253D.21, is amended to read:

253D.21 ~~NEUROLEPTIC~~ PSYCHOTROPIC MEDICATION.

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

Sec. 126. Minnesota Statutes 2018, section 253D.28, subdivision 2, is amended to read:

Subd. 2. **Procedure.** (a) The supreme court shall refer a petition for rehearing and reconsideration to the chief judge of the judicial appeal panel. The chief judge shall notify the committed person, the county attorneys of the county of commitment and county of financial responsibility, the commissioner, the executive director, 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. The hearing may be conducted by interactive video conference under General Rules of Practice, rule 131, and Minnesota Rules of Civil Commitment, rule 14.

(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 court 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.

Sec. 127. **APPROPRIATION.**

$..... in fiscal year 2020 is appropriated from the general fund to the commissioner of human services for the pilot project under Minnesota Statutes, section 253B.041.

Sec. 128. **REPEALER.**

Minnesota Statutes 2018, sections 253B.02, subdivision 6; 253B.05, subdivisions 1, 2, 2b, 3, and 4; 253B.064; 253B.065; 253B.066; 253B.09, subdivision 3; 253B.15, subdivision 11; and 253B.20, subdivision 7, are repealed.

253B.02 DEFINITIONS.

Subd. 6. **Emergency treatment.** "Emergency treatment" means the treatment of a patient pursuant to section 253B.05 which is necessary to protect the patient or others from immediate harm.

253B.05 EMERGENCY ADMISSION.

Subdivision 1. **Emergency hold.** (a) Any person may be admitted or held for emergency care and treatment in a treatment facility, except to a facility operated by the Minnesota sex offender program, with the consent of the head of the treatment facility upon a written statement by an examiner that:

(1) the examiner has examined the person not more than 15 days prior to admission;

(2) the examiner is of the opinion, for stated reasons, that the person is mentally ill, developmentally disabled, or chemically dependent, and is in danger of causing injury to self or others if not immediately detained; and

(3) an order of the court cannot be obtained in time to prevent the anticipated injury.

(b) If the proposed patient has been brought to the treatment facility by another person, the examiner shall make a good faith effort to obtain a statement of information that is available from that person, which must be taken into consideration in deciding whether to place the proposed patient on an emergency hold. The statement of information must include, to the extent available, direct observations of the proposed patient's behaviors, reliable knowledge of recent and past behavior, and information regarding psychiatric history, past treatment, and current mental health providers. The examiner shall also inquire into the existence of health care directives under chapter 145, and advance psychiatric directives under section 253B.03, subdivision 6d.

(c) The examiner's statement shall be: (1) sufficient authority for a peace or health officer to transport a patient to a treatment facility, (2) stated in behavioral terms and not in conclusory language, and (3) of sufficient specificity to provide an adequate record for review. If danger to specific individuals is a basis for the emergency hold, the statement must identify those individuals, to the extent practicable. A copy of the examiner's statement shall be personally served on the person immediately upon admission and a copy shall be maintained by the treatment facility.

(d) A patient must not be allowed or required to consent to nor participate in a clinical drug trial during an emergency admission or hold under this subdivision or subdivision 2. A consent given during a period of an emergency admission or hold is void and unenforceable. This paragraph does not prohibit a patient from continuing participation in a clinical drug trial if the patient was participating in the drug trial at the time of the emergency admission or hold.

Subd. 2. **Peace or health officer authority.** (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 developmentally disabled and in danger of injuring self or others if not immediately detained. 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. The peace or health officer shall make written application for admission of the person to the treatment facility. The application shall contain the peace or health officer's statement specifying the reasons for and circumstances under which the person was taken into custody. If 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. The peace or health officer who makes the application shall provide the officer's name, the agency that employs the officer, and the telephone number or other contact information for purposes of receiving notice under subdivision 3, paragraph (d).

(b) As far as is practicable, a peace officer who provides transportation for a person placed in a facility under this subdivision may not be in uniform and may not use a vehicle visibly marked as a law enforcement vehicle.

(c) 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: (1)

a written statement shall only be made by the following individuals who are knowledgeable, trained, and practicing in the diagnosis and treatment of mental illness or developmental disability; the medical officer, or the officer's designee on duty at the facility, including a licensed physician, a licensed physician assistant, or an advanced practice registered nurse who after preliminary examination has determined that the person has symptoms of mental illness or developmental disability and appears to be in danger of harming self or others if not immediately detained; or (2) a written statement is made by the institution program director or the director's designee on duty at the facility after preliminary examination that the person has symptoms of chemical dependency and appears to be in danger of harming self or others if not immediately detained or is intoxicated in public.

Subd. 2b. **Notice.** Every person held pursuant to this section must be informed in writing at the time of admission of the right to leave after 72 hours, to a medical examination within 48 hours, and to request a change to voluntary status. The treatment facility shall, upon request, assist the person in exercising the rights granted in this subdivision.

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. If a petition for the commitment of the person is filed in the district court in the county of financial responsibility or of the county in which the treatment facility is located, the court may issue a judicial hold order pursuant to section 253B.07, subdivision 2b.

(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 direct the release and shall issue written findings supporting the decision. The release may not be delayed pending the written order. 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 individuals identified in the record who might be endangered if the person was not held;

(2) the examiner whose written statement was a basis for a hold under subdivision 1; and

(3) the peace or health officer who applied for a hold under subdivision 2.

(c) If a person is intoxicated in public and held under this section for detoxification, a treatment facility may release the person without providing notice under paragraph (d) as soon as the treatment facility determines the person is no longer a danger to themselves or others. Notice must be provided to the peace officer or health officer who transported the person, or the appropriate law enforcement agency, if the officer or agency requests notification.

(d) Notwithstanding section 144.293, subdivisions 2 and 4, if a treatment facility releases or discharges a person during the 72-hour hold period or if the person leaves the facility without the consent of the treating health care provider, 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. This paragraph does not apply to the extent that the notice would violate federal law governing the confidentiality of alcohol and drug abuse patient records under Code of Federal Regulations, title 42, part 2.

(e) A person held under a 72-hour emergency hold must be released by the facility within 72 hours unless a court order to hold the person is obtained. A consecutive emergency hold order under this section may not be issued.

Subd. 4. **Change of status.** Any person admitted pursuant to this section shall be changed to voluntary status provided by section 253B.04 upon the person's request in writing and with the consent of the head of the treatment facility.

253B.064 COURT-ORDERED EARLY INTERVENTION; PRELIMINARY PROCEDURES.

Subdivision 1. **General.** (a) An interested person may apply to the designated agency for early intervention of a proposed patient in the county of financial responsibility or the county where the

patient is present. If the designated agency determines that early intervention may be appropriate, a prepetition screening report must be prepared pursuant to section 253B.07, subdivision 1. The county attorney may file a petition for early intervention following the procedures of section 253B.07, subdivision 2.

(b) The proposed patient is entitled to representation by counsel, pursuant to section 253B.07, subdivision 2c. The proposed patient shall be examined by an examiner, and has the right to a second independent examiner, pursuant to section 253B.07, subdivisions 3 and 5.

Subd. 2. **Prehearing examination; failure to appear.** If a proposed patient fails to appear for the examination, the court may:

(1) reschedule the examination; or

(2) deem the failure to appear as a waiver of the proposed patient's right to an examination and consider the failure to appear when deciding the merits of the petition for early intervention.

Subd. 3. **County option.** Nothing in sections 253B.064 to 253B.066 requires a county to use early intervention procedures.

253B.065 COURT-ORDERED EARLY INTERVENTION; HEARING PROCEDURES.

Subdivision 1. **Time for early intervention hearing.** The hearing on the petition for early intervention shall be held within 14 days from the date of the filing of the petition. For good cause shown, the court may extend the time of hearing up to an additional 30 days. When any proposed patient has not had a hearing on a petition filed for early intervention within the allowed time, the proceedings shall be dismissed.

Subd. 2. **Notice of hearing.** The proposed patient, the patient's counsel, the petitioner, the county attorney, and any other persons as the court directs shall be given at least five days' notice that a hearing will be held and at least two days' notice of the time and date of the hearing, except that any person may waive notice. Notice to the proposed patient may be waived by patient's counsel.

Subd. 3. **Failure to appear.** If a proposed patient fails to appear at the hearing, the court may reschedule the hearing within five days and direct a health officer, peace officer, or other person to take the proposed patient to an appropriate treatment facility designated by the court and transport the person to the hearing.

Subd. 4. **Procedures.** The hearing must be conducted pursuant to section 253B.08, subdivisions 3 to 8.

Subd. 5. **Early intervention criteria.** (a) A court shall order early intervention treatment of a proposed patient who meets the criteria under paragraph (b) or (c). The early intervention treatment must be less intrusive than long-term inpatient commitment and must be the least restrictive treatment program available that can meet the patient's treatment needs.

(b) The court shall order early intervention treatment if the court finds all of the elements of the following factors by clear and convincing evidence:

(1) the proposed patient is mentally ill;

(2) the proposed patient refuses to accept appropriate mental health treatment; and

(3) the proposed patient's mental illness is manifested by instances of grossly disturbed behavior or faulty perceptions and either:

(i) the grossly disturbed behavior or faulty perceptions significantly interfere with the proposed patient's ability to care for self and the proposed patient, when competent, would have chosen substantially similar treatment under the same circumstances; or

(ii) due to the mental illness, the proposed patient received court-ordered inpatient treatment under section 253B.09 at least two times in the previous three years; the patient is exhibiting symptoms or behavior substantially similar to those that precipitated one or more of the court-ordered treatments; and the patient is reasonably expected to physically or mentally deteriorate to the point of meeting the criteria for commitment under section 253B.09 unless treated.

For purposes of this paragraph, a proposed patient who was released under section 253B.095 and whose release was not revoked is not considered to have received court-ordered inpatient treatment under section 253B.09.

(c) The court may order early intervention treatment if the court finds by clear and convincing evidence that a pregnant woman is a chemically dependent person. A chemically dependent person for purposes of this section is a woman who has during pregnancy engaged in excessive use, for a nonmedical purpose, of controlled substances or their derivatives, alcohol, or inhalants that will pose a substantial risk of damage to the brain or physical development of the fetus.

(d) For purposes of paragraphs (b) and (c), none of the following constitute a refusal to accept appropriate mental health treatment:

(1) a willingness to take medication but a reasonable disagreement about type or dosage;

(2) a good faith effort to follow a reasonable alternative treatment plan, including treatment as specified in a valid advance directive under chapter 145C or section 253B.03, subdivision 6d;

(3) an inability to obtain access to appropriate treatment because of inadequate health care coverage or an insurer's refusal or delay in providing coverage for the treatment; or

(4) an inability to obtain access to needed mental health services because the provider will only accept patients who are under a court order or because the provider gives persons under a court order a priority over voluntary patients in obtaining treatment and services.

253B.066 COURT-ORDERED EARLY INTERVENTION; DECISION; TREATMENT ALTERNATIVES; DURATION.

Subdivision 1. **Treatment alternatives.** If the court orders early intervention under section 253B.065, subdivision 5, the court may include in its order a variety of treatment alternatives including, but not limited to, day treatment, medication compliance monitoring, assertive community treatment, crisis assessment and stabilization, partial hospitalization, and short-term hospitalization not to exceed 21 days.

If the court orders short-term hospitalization and the proposed patient will not go voluntarily, the court may direct a health officer, peace officer, or other person to take the person into custody and transport the person to the hospital.

Subd. 2. **Findings.** The court shall find the facts specifically and separately state its conclusions of law in its order. Where early intervention is ordered, the findings of fact and conclusions of law shall specifically state the proposed patient's conduct which is a basis for determining that each of the requisites for early intervention is met.

The court shall also determine the nature and extent of the property of the patient and of the persons who are liable for the patient's care.

Subd. 3. **Duration.** The order for early intervention shall not exceed 90 days.

253B.09 DECISION; STANDARD OF PROOF; DURATION.

Subd. 3. **Financial determination.** The court shall determine the nature and extent of the property of the patient and of the persons who are liable for the patient's care. If the patient is committed to a regional treatment center, the court shall send a copy of the commitment order to the commissioner.

253B.15 PROVISIONAL DISCHARGE; PARTIAL INSTITUTIONALIZATION.

Subd. 11. **Partial institutionalization.** The head of a treatment facility may place any committed person on a status of partial institutionalization. The status shall allow the patient to be absent from the facility for certain fixed periods of time. The head of the facility may terminate the status at any time.

253B.20 DISCHARGE; ADMINISTRATIVE PROCEDURE.

Subd. 7. **Services.** A committed person may at any time after discharge, provisional discharge or partial treatment, apply to the head of the treatment facility within whose district the committed person resides for treatment. The head of the treatment facility, on determining that the applicant requires service, may provide needed services related to mental illness, developmental disability, or chemical dependency to the applicant. The services shall be provided in regional centers under terms and conditions established by the commissioner.