

CHAPTER 262—H.F.No.2588

[Coded in Part]

An act relating to hospitalization and commitment; defining committing court; revising the bases and procedures for judicial commitment; providing for commitment for an indeterminate period in certain cases; providing procedures prior to certain transfers; providing for provisional discharges; establishing an appeal panel and procedures for appeals; providing for certain review boards; amending Minnesota Statutes 1969, Sections 253A.02, by adding a subdivision; 253A.07, Subdivisions 17, 24, 26, 27, and 28; 253A.14; 253A.15, Subdivisions 1 and 2; and 253A.16, Subdivisions 1, 4, 5, and 6.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1969, Section 253A.02, is amended by adding a subdivision to read:

Subd. 19. HOSPITALIZATION AND COMMITMENT ACT; REVISION. "Committing court" means probate court.

Sec. 2. Minnesota Statutes 1969, Section 253A.07, Subdivision 17, is amended to read:

Subd. 17. If, upon completion of the hearing and consideration of the record, the court finds the proposed patient is:

(a) Mentally ill or inebriate, and that commitment to a hospital is necessary for the welfare of the patient or the protection of society, the court shall commit such patient to a public hospital or a private hospital consenting to receive him, subject to a mandatory review by the head of the hospital within 60 days from the date of the order as hereinafter provided.

(b) Mentally deficient, the court shall appoint the commissioner guardian of the person of the proposed patient and commit him to the care and custody of the commissioner;

(c) Mentally ill and dangerous to the public, the court shall commit such patient to a public hospital or a private hospital consenting to receive him for a period not to exceed 60 days from the date of the order, subject to a mandatory review by the head of the hospital within 60 days from the date of the order as hereinafter provided.

Sec. 3. Minnesota Statutes 1969, Section 253A.07, Subdivision 24, is amended to read:

Subd. 24. If no written statement is filed within 60 days or if the written statement describes the patient as not in need of further

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institutional care and treatment, the proceedings shall be terminated by the court and the patient shall be discharged from the hospital. ~~If no written statement is filed within 60 days, a patient committed under subdivision 17, clause (a) shall be released unless the patient was committed as mentally ill and dangerous to the public or as a psychopathic personality, in which case a further hearing shall be held by the committing court within 14 days after the court's receipt of such statement and the committing court shall then make the final determination.~~

Sec. 4. Minnesota Statutes 1969, Section 253A.07, Subdivision 26, is amended to read:

Subd. 26. If, in the case of a person committed under subdivision 17, clause (c), the statement describes the patient as mentally ill but not dangerous to the public, the patient shall not be committed for an indeterminate period as dangerous to the public except following a hearing as provided for in this section. If the statement describes the patient as mentally ill and dangerous to the public, the court may order hospitalization of the patient for an indeterminate period. Upon the patient's request the court shall conduct a hearing as provided by this section before final determination.

Sec. 5. Minnesota Statutes 1969, Section 253A.07, Subdivision 27, is amended to read:

Subd. 27. At any time prior to the expiration of the 60 day period a patient who has not been committed as mentally ill and dangerous to the public or as a psychopathic personality may be transferred to informal status upon his application in writing with the consent of the head of the hospital. Upon such transfer the head of the hospital shall immediately notify the court in writing and upon receipt of the same the court shall terminate the proceedings.

Sec. 6. Minnesota Statutes 1969, Section 253A.07, Subdivision 28, is amended to read:

Subd. 28. During the 60 day period a patient who has not been committed as mentally ill and dangerous to the public or as a psychopathic personality may be placed on provisional discharge as provided in section 253A.15, but unless such discharge is made absolute before the end of the 60 day period the patient shall remain subject to the same laws, rules, and regulations as other patients committed under sections 253A.01 to 253A.21.

Sec. 7. Minnesota Statutes 1969, Section 253A.14, is amended to read:

253A.14 TRANSFER. Subdivision 1. The commissioner may transfer any patient who is committed by probate court as mentally ill, mentally deficient, or inebriate from one state hospital or

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institution to any other hospital or other institution under his jurisdiction which is capable of providing such patient proper care and treatment, unless such patient was found by the committing court to be dangerous to the public or to have a psychopathic personality. Whenever a patient is transferred from one hospital to another written notice shall be given to the probate court if the patient was committed under sections 253A.01 to 253A.21, and to his parent or spouse or, if none be known, to an interested person, and the county welfare board.

Subd. 2. Persons who have been found by the committing court to be dangerous to the public or a psychopathic personality shall not be transferred out of the Minnesota security hospital unless it appears to the satisfaction of the commissioner, after a hearing before and a recommendation by the special review board, appointed and acting under and pursuant to section 253A.16 that such transfer is appropriate. The probate court and the county attorney of the county of commitment and the patient and his attorney shall be given notice by the commissioner at least 14 days prior to the hearing of the time and place of the hearing before such special review board.

Sec. 8. Minnesota Statutes 1969, Section 253A.15, Subdivision 1, is amended to read:

253A.15 DISCHARGE. Subdivision 1. The head of a hospital shall discharge any patient admitted as mentally ill or inebriate when certified by him to be no longer in need of institutional care and treatment, unless such patient was charged with or convicted of a criminal offense, or was found by the committing court to be dangerous to the public or to have a psychopathic personality. In the case of committed patients, other than those committed as mentally ill and dangerous to the public or as a psychopathic personality the head of the hospital may provisionally discharge any such patient; that is, discharge him from the hospital without discharging his commitment. Where such patient was charged with or convicted of a criminal offense, he shall not be discharged except upon order of a court of competent jurisdiction. In cases where the patient was charged with, or convicted of, a criminal offense the hospital shall notify the court that the patient is no longer in need of institutional care and treatment and the court shall order appropriate disposition of the patient.

Sec. 9. Minnesota Statutes 1969, Section 253A.15, Subdivision 2, is amended to read:

~~Subd. 2. Where such patient was found by the committing court to be dangerous to the public or to have a psychopathic personality, such patient shall not be discharged except upon order of a majority of a three judge court composed of the probate judges appointed by the chief justice of the supreme court. The petition for an order of~~

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discharge shall be filed with the probate court which committed the patient. Expenses of the hearing before the three judge court shall be borne by the commissioner. (a) Where such patient was found by the committing court to be dangerous to the public or to have a psychopathic personality, such patient shall not be discharged or provisionally discharged except upon order of the commissioner and no such discharge or provisional discharge shall be ordered by the commissioner unless he is satisfied that the patient is capable of making an acceptable adjustment in society and unless the commissioner has received a favorable recommendation to that effect by a majority of the special review board appointed and acting under section 253A.16. A petition for an order of discharge or provisional discharge shall be filed with the commissioner and may be filed by the patient or by the head of the hospital. The special review board shall be convened by the commissioner at reasonable intervals and shall hold a hearing on each petition for discharge or provisional discharge prior to making any recommendation thereon. The probate court and the county attorney of the county of commitment, and the petitioner and his attorney, if any, shall each be given written notice by the commissioner of the time and place of the hearing before the special review board at least 14 days prior to the date of such hearing and may appear before the special review board and such persons shall also be given written notice of the making of any such order by the commissioner and a copy of the same within five days after the making and entry of such order, the notice and copy thereof to be furnished by registered mail with return receipt. No order by the commissioner for the discharge or provisional discharge of a patient shall be made effective sooner than 30 days after the making and entry of such order.

(b) There shall be established by the supreme court an appeal panel composed of three probate judges and two alternate probate judges, all of whom shall be appointed from among the acting probate judges of the state by the chief justice of the supreme court for terms of one year each. Only three judges need hear any case. One of the regular three judges so appointed shall be designated as the chief judge of the appeal panel and that judge is hereby vested with power and authority to fix the time and place of all hearings before the panel, issue all notices, subpoena witnesses, appoint counsel for the patient, if necessary, and generally to supervise and direct the operation of the appeal panel. The chief judge shall designate any other judge or any alternate judge to act as chief judge in any case where such chief judge is unable to act and with the same powers and authority. No judge appointed to the appeal panel shall take part in the consideration of any case in which that judge committed the patient in the probate court. The chief justice of the supreme court shall determine the compensation of the judges serving on the appeal panel, such compensation to be in addition to their ordinary compensation as probate judges, and all compensation

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and expenses of the appeal panel shall be borne by the department of public welfare.

(c) The patient or the county attorney of the county from which the patient was committed aggrieved by the action of the commissioner under clause (a) of this subdivision, may petition for a rehearing and reconsideration of the case before the appeal panel. Such petition shall be filed with the supreme court within 30 days after the making and entry of the order of the commissioner. The supreme court shall notify the head of the hospital in which the patient is confined and refer the petition to the chief judge of the appeal panel. Written notice by mail shall be given to the patient, the county attorney of the county of commitment, the commissioner, the head of the hospital in which the patient is confined, and such persons as the chief judge may designate, of the time and place of the hearing on such petition. Such notice is to be given not less than 14 days prior to the date of such hearing, which hearing shall be within 45 days of the filing of the petition. Any person may oppose the petition. The appeal panel may appoint examiners, and may adjourn the hearing from time to time. It shall hear and receive all relevant testimony and evidence and make a record of all such proceedings. The patient and the county attorney of the committing county shall be entitled to be present and to cross-examine all witnesses. A majority of the appeal panel shall make and enter such orders as they may deem just and equitable and the orders of the appeal panel shall supersede all orders of the commissioner in such cases.

(d) In all proceedings before the appeal panel the patient shall be afforded an opportunity to be represented by counsel, and if neither the patient or others provide counsel the chief judge of the appeal panel shall appoint counsel to represent the patient. The compensation of such appointed counsel shall be determined by the chief judge and the expense thereof shall be borne and paid by the department of public welfare.

(e) The filing with the supreme court of a petition under clause (c) of this subdivision shall immediately suspend the operation of any order for discharge, provisional discharge or release from custody of the patient and said patient shall not thereafter be discharged or released in any manner except upon order of a majority of the appeal panel.

(f) A party aggrieved by an order of the appeal panel may appeal from such decision to the supreme court in the same manner as other appeals in civil actions.

Sec. 10. Minnesota Statutes 1969, Section 253A.16, Subdivision 1, is amended to read:

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253A.16 REVIEW BOARDS. Subdivision 1. There shall be established by the commissioner for each state hospital a review board of three or more persons to review the admission and retention of patients in state mental hospitals. One of such persons shall be qualified in the diagnosis of mental illness or mental deficiency and one of such persons shall be learned in the law.

Sec. 11. Minnesota Statutes 1969, Section 253A.16, Subdivision 4, is amended to read:

Subd. 4. The board shall review the admission and retention of patients at each state mental hospital. 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 mental hospital. The board shall report its findings to the commissioner.

Sec. 12. Minnesota Statutes 1969, Section 253A.16, Subdivision 5, is amended to read:

Subd. 5. ~~The board shall report its findings to the commissioner.~~ There shall be established by the commissioner one special review board for mentally ill and dangerous and psychopathic personalities, of three members, all of whom shall be experienced in the field of mental illness. One member of the special review board shall be a physician qualified in the diagnosis of mental illness or mental deficiency, one member shall be an attorney and no member shall be connected with the department of public welfare. This special review board shall meet at least every six months and be otherwise on call of the commissioner and shall hear and consider all petitions for transfer out of the Minnesota security hospital, discharge or provisional discharge filed under and pursuant to sections 253A.14 and 253A.15, and make recommendations to the commissioner concerning the same.

Sec. 13. Minnesota Statutes 1969, Section 253A.16, Subdivision 6, is amended to read:

Subd. 6. Each member of the review board and the special review board shall receive as compensation the sum of \$50 per day or any portion thereof spent in discharge of his official duties. In addition to the compensation so provided, each member of the review board and the special review board shall be reimbursed for all expenses paid or incurred by him in the performance of his official duties.

Approved May 13, 1971.

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