

(h) employees of charitable hospitals as defined by section 179.35, subdivision 3;

(i) full-time undergraduate students employed by the school which they attend under a work study program or in connection with the receipt of financial aid, irrespective of number of hours of service per week;

(j) an individual who is employed for less than 300 hours in a fiscal year as an instructor in an adult vocational education program;

(k) an individual hired by a school district, the community college board, or the state university board, to teach one course for up to four credits for one quarter in a year.

The following individuals are "public employees" regardless of the exclusions of clauses (e) and (f):

An employee hired by a school district, the community college board, or the state university board, except at the university established in section 136.017 or for community services or community education instruction offered on a non-credit basis: (1) to replace an absent teacher or faculty member who is a public employee, where the replacement employee is employed more than 30 working days as a replacement for that teacher or faculty member; or (2) to take a teaching position created due to increased enrollment, curriculum expansion, courses which are a part of the curriculum whether offered annually or not, or other appropriate reasons.

## Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Presented to the governor March 28, 1990

Signed by the governor March 30, 1990, 7:04 p.m.

## CHAPTER 378—H.F.No. 2045

*An act relating to human services; clarifying the definition of mentally retarded person in the Minnesota Commitment Act; increasing the time limit for a court of appeals decision under the commitment act; amending Minnesota Statutes 1988, sections 253B.02, subdivision 14; 253B.12, subdivision 4; and 253B.23, subdivision 7.*

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

Section 1. Minnesota Statutes 1988, section 253B.02, subdivision 14, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 14. **MENTALLY RETARDED PERSON.** "Mentally retarded person" means any person (a) who has been diagnosed as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior and who manifests these conditions prior to the person's 22nd birthday; and (b) whose recent conduct is a result of mental retardation and poses a substantial likelihood of physical harm to self or others in that there has been (i) a recent attempt or threat to physically harm self or others, or (ii) a failure and inability to obtain necessary food, clothing, shelter, safety, or medical care.

Sec. 2. Minnesota Statutes 1988, section 253B.12, subdivision 4, is amended to read:

Subd. 4. **HEARING; STANDARD OF PROOF.** The committing court shall not make a final determination of the need to continue commitment unless a hearing is held and the court finds by clear and convincing evidence that (1) the person continues to be mentally ill, mentally retarded or chemically dependent; (2) involuntary commitment is necessary for the protection of the patient or others; and (3) there is no alternative to involuntary commitment.

In determining whether a person continues to be mentally ill, chemically dependent or mentally retarded, 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 necessary personal food, clothing, shelter, or medical care unless involuntary commitment is continued.

Sec. 3. Minnesota Statutes 1988, section 253B.23, subdivision 7, is amended to read:

Subd. 7. **APPEAL.** The commissioner or any other aggrieved party may appeal to the court of appeals from any order entered under this chapter as in other civil cases.

Upon perfection of the appeal, the return shall be filed forthwith. The court of appeals shall hear the appeal within 45 60 days after service of the notice of appeal. This appeal shall not suspend the operation of the order appealed from until the appeal is determined, unless otherwise ordered by the court of appeals.

Presented to the governor March 28, 1990

Signed by the governor March 30, 1990, 7:05 p.m.

New language is indicated by underline, deletions by ~~strikeout~~.