

CHAPTER 118—S.F.No. 283

An act relating to civil commitment; clarifying standards and procedures; modifying procedures governing persons committed as mentally ill and dangerous to the public; amending Minnesota Statutes 1998, sections 253B.065, subdivision 5; 253B.17, subdivision 1; 253B.18, subdivisions 1, 2, and 4c; 253B.185, subdivision 1; and 256G.08, subdivision 1.

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

Section 1. Minnesota Statutes 1998, section 253B.065, subdivision 5, is amended to read:

Subd. 5. **EARLY INTERVENTION CRITERIA.** (a) A court shall order early intervention treatment of a proposed patient who meets the criteria under paragraph (b). 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.09 and whose release was not revoked is not considered to have received court-ordered inpatient treatment under section 253B.09.

Sec. 2. Minnesota Statutes 1998, section 253B.17, subdivision 1, is amended to read:

Subdivision 1. **PETITION.** Any patient, except one committed as mentally ill and dangerous to the public or as a sexually dangerous person or person with a sexual psychopathic personality 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 or for an order that an individual is no longer mentally ill, mentally retarded, or chemically dependent, or for any other relief. A patient committed as mentally ill or mentally ill and dangerous may

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petition the committing court or the court to which venue has been transferred for a hearing concerning the administration of neuroleptic medication.

Sec. 3. Minnesota Statutes 1998, 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 mentally ill and 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 mentally ill and dangerous to the public, it shall commit the person to a secure treatment facility or to a treatment facility willing to accept the patient under commitment. The court shall commit the patient to a secure treatment facility unless the patient establishes by clear and convincing evidence that a less restrictive treatment program 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 mentally ill and dangerous 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 pursuant to a commitment under this subdivision, treatment must begin regardless of whether a review hearing will be held under subdivision 2.

Sec. 4. Minnesota Statutes 1998, 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 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 treatment facility. The court shall hold a hearing to make a final determination as to whether the person should remain committed as mentally ill and 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 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 mentally ill, but not as mentally ill and dangerous to the public, the court may commit the person as a mentally ill person and the person shall be deemed not to have been found to be dangerous to the public for the purposes of subdivisions 4-4a to 15. Failure of the treatment facility to provide the required report at the end of the 60-day period shall not result in automatic discharge of the patient.

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Sec. 5. Minnesota Statutes 1998, 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 for persons committed as mentally ill and dangerous to the public. 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 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 transfer from a secure treatment facility; all petitions relative to for discharge, provisional discharge, and revocation of provisional discharge; and make recommendations to the commissioner concerning them. Patients may be transferred by the commissioner between secure treatment facilities without a special review board hearing.

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

Sec. 6. Minnesota Statutes 1998, section 253B.185, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** Except as otherwise provided in this section, the provisions of this chapter pertaining to persons mentally ill and dangerous to the public apply with like force and effect to persons who are alleged or found to be sexually dangerous persons or persons with a sexual psychopathic personality. Before commitment proceedings are instituted, the facts shall first be submitted to the county attorney, who, if satisfied that good cause exists, will prepare the petition. The county attorney may request a prepetition screening report. The petition is to be executed by a person having knowledge of the facts and filed with the committing court of the county in which the patient has a settlement or is present. If the patient is in the custody of the commissioner of corrections, the petition may be filed in the county where the conviction for which the person is incarcerated was entered. Upon the filing of a petition alleging that a proposed patient is a sexually dangerous person or is a person with a sexual psychopathic personality, the court shall hear the petition as provided in section 253B.18. In commitments under this section, the court shall commit the patient to a secure treatment facility unless the patient establishes by clear and convincing evidence that a less restrictive treatment program is available that is consistent with the patient's treatment needs and the requirements of public safety.

Sec. 7. Minnesota Statutes 1998, section 256G.08, subdivision 1, is amended to read:

Subdivision 1. **COMMITMENT PROCEEDINGS.** In cases of voluntary admission or commitment to state or other institutions, the committing county shall initially pay for all costs. This includes the expenses of the taking into custody, confinement, emergency holds under sections 253B.05, subdivisions 1 and 2, and 253B.07, examination, commitment, conveyance to the place of detention, rehearing, and hearings under section ~~253B.03, subdivision 6~~ 253B.092, including hearings held under that section which are venued outside the county of commitment.

Presented to the governor April 30, 1999

Signed by the governor May 4, 1999, 11:15 a.m.

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