

boards. Neither this provision nor Minnesota Statutes, section 214.06, applies to transfers from the general contingent account.

Subd. 2. Board of Chiropractic Examiners

75,000

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**LEGAL COSTS.** Of this appropriation, \$75,000 for the fiscal year beginning July 1, 2001, is to the board to pay for extraordinary legal costs. This is a onetime appropriation and shall not become part of base-level funding for the 2004-2005 biennium.

**Sec. 5. SUNSET OF UNCODIFIED LANGUAGE.**

All uncodified language contained in this article expires on June 30, 2003, unless a different expiration date is explicit.

**Sec. 6. EFFECTIVE DATE.**

Except as otherwise provided in this article, this article is effective the day following final enactment.

Presented to the governor February 21, 2002

Vetoed by the governor February 25, 2002, 3:48 p.m.

Reconsidered and approved by the legislature after the governor's veto February 28, 2002

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**CHAPTER 221—S.F.No. 58**

*An act relating to human services; changing terminology in statute of references to mentally ill person; amending Minnesota Statutes 2000, sections 13.89, subdivision 2; 148.263, subdivision 5; 148B.07, subdivision 6; 148B.283, subdivision 7; 148C.09, subdivision 1; 149A.61, subdivision 5; 153.19, subdivision 1; 153.24, subdivision 5; 156.081, subdivision 2; 156.122; 245.462, subdivision 20; 253.015, subdivision 2; 253.21; 253B.02, subdivisions 17, 18, 19; 253B.06, subdivision 1; 253B.12, subdivision 1; 253B.141, subdivision 2; 253B.15, subdivision 1; 253B.16, subdivision 1; 253B.17, subdivision 1; 253B.18, subdivisions 1, 2, 3, 4a, 4b, 6, 7, 15; 253B.185, subdivision 1; 253B.19, subdivision 2; 253B.212, subdivision 2; 256E.03, subdivision 2; 299F.77; 376.01; 376.02; 462A.02, subdivision 9; 462A.03, subdivision 19; 609.06, subdivision 1; 609.668, subdivision 2; 624.713, subdivision 1; 631.50; Minnesota Statutes 2001 Supplement, sections 241.69, subdivisions 2, 3, 4, 5; 253B.02, subdivision 13; 253B.09, subdivision 1.*

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

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Section 1. Minnesota Statutes 2000, section 13.89, subdivision 2, is amended to read:

Subd. 2. **MENTAL ILLNESS OR EMOTIONAL IMPAIRMENT.** Data on an individual who has significant mental illness or emotional impairment and who is an inpatient or resident in a facility rendering care or treatment may be disseminated to the protection and advocacy system established in this state pursuant to Public Law Number 99-319 to protect the rights of persons who are mentally ill individuals if:

(1) the protection and advocacy system receives a complaint by or on behalf of the person or there is probable cause to believe that the person has been subjected to abuse or neglect, as defined in Public Law Number 99-319;

(2) the person is by reason of a mental or physical condition unable to authorize the system to have access to data; and

(3) the person does not have a legal guardian or the state is the legal guardian of the person.

Sec. 2. Minnesota Statutes 2000, section 148.263, subdivision 5, is amended to read:

Subd. 5. **COURTS.** The court administrator of district court or another court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a nurse is a person who is mentally ill, mentally incompetent, chemically dependent, a person dangerous to the public, guilty of a felony or gross misdemeanor, guilty of a violation of federal or state narcotics laws or controlled substances act, guilty of operating a motor vehicle while under the influence of alcohol or a controlled substance, or guilty of an abuse or fraud under Medicare or Medicaid, appoints a guardian of the nurse under sections 525.54 to 525.61, or commits a nurse under chapter 253B.

Sec. 3. Minnesota Statutes 2000, section 148B.07, subdivision 6, is amended to read:

Subd. 6. **COURTS.** The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a licensee is a person who is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of an abuse or fraud under Medicare or Medicaid; or that appoints a guardian of the licensee pursuant to sections 525.54 to 525.61 or commits a licensee pursuant to chapter 253B.

Sec. 4. Minnesota Statutes 2000, section 148B.283, subdivision 7, is amended to read:

Subd. 7. **COURTS.** The court administrator of district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that an applicant or a licensee is a person who is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of an abuse or

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fraud under Medicare or Medicaid; or that appoints a guardian of the applicant or licensee pursuant to sections 525.54 to 525.61 or commits an applicant or a licensee pursuant to chapter 253B.

Sec. 5. Minnesota Statutes 2000, section 148C.09, subdivision 1, is amended to read:

Subdivision 1. **GROUND**S. The commissioner may refuse to grant a license to, or may suspend, revoke, or restrict the license of an individual if the commissioner determines that a licensee or applicant:

(1) is incompetent to engage in alcohol and drug counseling practice or is found to be engaged in alcohol and drug counseling practice in a manner harmful or dangerous to a client or the public;

(2) has violated the rules of the commissioner or the statutes the commissioner is empowered to enforce; or any law, rule order, stipulation and consent order, agreement, or settlement;

(3) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent misrepresentation;

(4) has knowingly made a false statement on the form required to be submitted to the commissioner for licensing or license renewal;

(5) has failed to obtain continuing education credits required by the commissioner;

(6) has failed to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or rules of the commissioner. The burden of proof shall be upon the applicant to demonstrate qualifications or satisfaction of requirements;

(7) has been convicted of a crime, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to the provision of alcohol and drug counseling services. Conviction, as used in this subdivision, includes conviction of an offense which, if committed in this state, would be deemed a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered;

(8) has been convicted of a crime against another person. For purposes of this chapter, a crime against another person means an offense listed in section 148B.68, subdivision 1, paragraph (b);

(9) has failed to comply with the self-reporting requirements of section 148C.095, subdivision 7;

(10) has engaged in sexual contact with a client, or a former client, as defined in section 148A.01, or has engaged in conduct that may be reasonably interpreted by a client as sexual, or has engaged in any verbal behavior that is seductive or sexually

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demeaning to the client, or has engaged in sexual exploitation of a client or former client;

(11) has engaged in false, fraudulent, deceptive, or misleading advertising;

(12) has engaged in conduct likely to deceive, defraud, or harm the public; or has demonstrated a willful or careless disregard for the health, welfare, or safety of a client; or any other practice that may create unnecessary danger to any client's life, health, or safety, in any of which cases, proof of actual injury need not be established;

(13) has been adjudicated as mentally incompetent, or as a person who has a psychopathic personality, or who is dangerous to self, or has been adjudicated as a person who is chemically dependent, mentally ill, mentally retarded, or mentally ill and dangerous to the public pursuant to chapter 253B;

(14) is unable to provide alcohol and drug counseling services with reasonable safety to clients;

(15) has habitually overindulged in the use of or the dependence on alcohol within the past two years;

(16) has engaged in the improper or unauthorized personal or other use of any legend drugs as defined in section 151.01, any chemicals as defined in section 151.01, or any controlled substance as defined in section 152.01 within the past two years;

(17) reveals a communication from, or relating to, a client except when required or permitted by law;

(18) fails to comply with a client's request for health records made under section 144.335, or to furnish a client record or report required by law;

(19) has engaged in fee splitting or promises to pay a portion of a fee to any other professional other than for services rendered by the other professional to the client;

(20) has engaged in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(21) fails to make reports as required by section 148C.095, or cooperate with an investigation of the commissioner;

(22) obtains money, property, or services from a client, other than reasonable fees for services provided to the client, through the use of undue influence, harassment, duress, deception, or fraud;

(23) undertakes or continues a professional relationship with a client in which the objectivity of the alcohol and drug counselor may be impaired;

(24) engages in conduct that constitutes grounds for discipline as established by the commissioner in rule; or

(25) engages in bartering for services with a client.

Sec. 6. Minnesota Statutes 2000, section 149A.61, subdivision 5, is amended to read:

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Subd. 5. **COURTS.** The court administrator of district court or any court of competent jurisdiction shall report to the commissioner any judgment or other determination of the court that adjudges or includes a finding that a licensee or intern is a person who is mentally ill, mentally incompetent, guilty of a felony or gross misdemeanor, guilty of violations of federal or state narcotics laws or controlled substances acts; appoints a guardian or conservator for the licensee or intern; or commits a licensee or intern.

Sec. 7. Minnesota Statutes 2000, section 153.19, subdivision 1, is amended to read:

Subdivision 1. **GROUNDS LISTED.** The board may refuse to grant a license or may impose disciplinary action as described in this section against any doctor of podiatric medicine. The following conduct is prohibited and is grounds for disciplinary action:

(1) failure to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or rules of the board; the burden of proof shall be upon the applicant to demonstrate the qualifications or satisfaction of the requirements;

(2) obtaining a license by fraud or cheating or attempting to subvert the licensing examination process;

(3) conviction, during the previous five years, of a felony reasonably related to the practice of podiatric medicine;

(4) revocation, suspension, restriction, limitation, or other disciplinary action against the person's podiatric medical license in another state or jurisdiction, failure to report to the board that charges regarding the person's license have been brought in another state or jurisdiction, or having been refused a license by any other state or jurisdiction;

(5) advertising that is false or misleading;

(6) violating a rule adopted by the board or an order of the board, a state, or federal law that relates to the practice of podiatric medicine, or in part regulates the practice of podiatric medicine, or a state or federal narcotics or controlled substance law;

(7) engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient; or podiatric medical practice that is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established;

(8) failure to supervise a preceptor or resident;

(9) aiding or abetting an unlicensed person in the practice of podiatric medicine, except that it is not a violation of this clause for a podiatrist to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the

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scope of that person's license or registration or delegated authority;

(10) adjudication as mentally incompetent, or a person who is mentally ill, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction, within or without this state;

(11) engaging in unprofessional conduct that includes any departure from or the failure to conform to the minimal standards of acceptable and prevailing podiatric medical practice, but actual injury to a patient need not be established;

(12) inability to practice podiatric medicine with reasonable skill and safety to patients by reason of illness or chemical dependency or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;

(13) revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law;

(14) improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made under section 144.335 or to furnish a medical record or report required by law;

(15) accepting, paying, or promising to pay a part of a fee in exchange for patient referrals;

(16) engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(17) becoming addicted or habituated to a drug or intoxicant;

(18) prescribing a drug for other than medically accepted therapeutic or experimental or investigative purposes authorized by a state or federal agency;

(19) engaging in sexual conduct with a patient or conduct that may reasonably be interpreted by the patient as sexual, or in verbal behavior which is seductive or sexually demeaning to a patient;

(20) failure to make reports as required by section 153.24 or to cooperate with an investigation of the board as required by section 153.20;

(21) knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo.

Sec. 8. Minnesota Statutes 2000, section 153.24, subdivision 5, is amended to read:

Subd. 5. **COURTS.** The court administrators of the district courts or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a podiatrist is a person who is mentally ill, mentally incompetent, guilty of a felony, or guilty of a violation of federal or state narcotics laws or controlled substances act, guilty of an

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abuse or fraud under Medicare or Medicaid, appoints a guardian of the podiatrist under sections 525.54 to 525.61 or commits a podiatrist under chapter 253B.

Sec. 9. Minnesota Statutes 2000, section 156.081, subdivision 2, is amended to read:

Subd. 2. **CAUSES.** The board may revoke, suspend, or impose limitations upon a license for any of the following causes:

(1) the employment of fraud, misrepresentation or deception in obtaining such license;

(2) being convicted of a felony or gross misdemeanor, including a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered, an admission of guilt, or a no contest plea, as evidenced by a certified copy of the conviction;

(3) being unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental or physical condition;

(4) existence of a professional connection with or the lending of one's name to any illegal practitioner of veterinary medicine;

(5) having been the subject of revocation, suspension, or surrender of a veterinary license in resolution of a complaint or other adverse action related to licensure in another jurisdiction or country;

(6) violating a state or federal narcotics or controlled substance law irrespective of any proceedings under section 152.18 or federal law;

(7) fraudulently conducting or reporting results of physical examinations or biological tests used to detect and prevent the dissemination of animal diseases, transportation of diseased animals, or distribution of contaminated, infected, or inedible animal products, or failing to report, as required by law, any contagious or infectious disease;

(8) engaging in false, fraudulent, deceptive, or misleading advertising;

(9) conviction on a charge of cruelty to animals;

(10) failure, after written notification by the board, to keep one's premises and all equipment therein in a clean and sanitary condition, according to reasonable standards adopted by the board;

(11) fraud, deception, or incompetence in the practice of veterinary medicine, including any departure from or failure to conform to the minimum standards of acceptable and prevailing practice without actual injury having to be established;

(12) engaging in unprofessional conduct as defined in rules adopted by the board or engaging in conduct which violates any statute or rule promulgated by the board or any board order;

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(13) being adjudicated by a court of competent jurisdiction, within or without this state, as a person who is incapacitated, mentally incompetent or mentally ill, chemically dependent, mentally ill and dangerous to the public, or a psychopathic personality;

(14) revealing a privileged communication from or relating to a client except when otherwise required or permitted by law;

(15) obtaining money, property, or services from a client through the use of undue influence, harassment, duress, deception, or fraud or through the improper use of the regulated individual's position as a professional;

(16) practicing outside the scope of practice authorized by the board's practice act; or

(17) making a false statement or misrepresentation to the board.

Sec. 10. Minnesota Statutes 2000, section 156.122, is amended to read:

**156.122 COURTS TO REPORT.**

The court administrator shall report to the board a judgment or finding by a court that a person regulated by the board:

(1) is a person who is mentally ill, chemically dependent, mentally ill and dangerous to the public, or is a sexual psychopathic personality or sexually dangerous person under chapter 253B or other applicable law;

(2) is guilty of a felony or gross misdemeanor; violation of a law involving the use, possession, or sale of a controlled substance; or operating a motor vehicle under the influence of alcohol or a controlled substance; or

(3) is in need of a guardian of the person under sections 525.54 to 525.61.

Sec. 11. Minnesota Statutes 2001 Supplement, section 241.69, subdivision 2, is amended to read:

Subd. 2. **EXAMINATION.** When any person confined in an adult correctional institution under the control of the commissioner of corrections is alleged to be a person who is mentally ill person, the director of psychological services, or warden or other person in charge of the institution shall cause the person to be examined by a licensed physician especially qualified in the diagnosis of mental illness, or, if none is available, by any licensed physician or licensed mental health professional available to the institution.

Sec. 12. Minnesota Statutes 2001 Supplement, section 241.69, subdivision 3, is amended to read:

Subd. 3. **TRANSFER.** If the licensed mental health professional finds the person to be a person who is mentally ill and in need of short-term care, the examining health care professional may recommend transfer by the commissioner of corrections to the mental health unit established pursuant to subdivision 1.

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Sec. 13. Minnesota Statutes 2001 Supplement, section 241.69, subdivision 4, is amended to read:

Subd. 4. **COMMITMENT.** If the examining health care professional or licensed mental health professional finds the person to be a person who is mentally ill and in need of ~~long term~~ long-term care in a hospital, or if an inmate transferred pursuant to subdivision 3 refuses to voluntarily participate in the treatment program at the mental health unit, the director of psychological services of the institution or the mental health professional shall initiate proceedings for judicial commitment as provided in section 253B.07. Upon the recommendation of the licensed mental health professional and upon completion of the hearing and consideration of the record, the court may commit the person to the mental health unit established in subdivision 1 or to another hospital. A person confined in a state correctional institution for adults who has been adjudicated to be a person who is mentally ill and in need of treatment may be committed to the commissioner of corrections and placed in the mental health unit established in subdivision 1.

Sec. 14. Minnesota Statutes 2001 Supplement, section 241.69, subdivision 5, is amended to read:

Subd. 5. **DISCHARGE.** The director of psychological services of the mental health unit established under this section may, subject to the provisions of chapter 253B, provisionally discharge any inmate patient admitted as a person who is mentally ill without discharging the commitment and order the inmate patient's release into the general population of the institution from which admitted, subject to return to the facility for further treatment.

When the director of psychological services of the facility certifies that a patient is no longer in need of institutional care for mental illness the director of psychological services shall discharge the patient to the institution from which committed, and the discharge shall also discharge the mental illness commitment.

A copy of the certification that the inmate is no longer in need of care for mental illness shall be transmitted to the commissioner of corrections. The commissioner of corrections shall give serious consideration to the aforementioned certification for purposes of their supervision over the inmate upon the inmate's release.

Sec. 15. Minnesota Statutes 2000, section 245.462, subdivision 20, is amended to read:

Subd. 20. **MENTAL ILLNESS.** (a) "Mental illness" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III, and that seriously limits a person's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, and recreation.

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(b) An "adult with acute mental illness" means an adult who has a mental illness that is serious enough to require prompt intervention.

(c) For purposes of case management and community support services, a "person with serious and persistent mental illness" means an adult who has a mental illness and meets at least one of the following criteria:

(1) the adult has undergone two or more episodes of inpatient care for a mental illness within the preceding 24 months;

(2) the adult has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding 12 months;

(3) the adult:

(i) has a diagnosis of schizophrenia, bipolar disorder, major depression, or borderline personality disorder;

(ii) indicates a significant impairment in functioning; and

(iii) has a written opinion from a mental health professional, in the last three years, stating that the adult is reasonably likely to have future episodes requiring inpatient or residential treatment, of a frequency described in clause (1) or (2), unless ongoing case management or community support services are provided;

(4) the adult has, in the last three years, been committed by a court as a person who is mentally ill person under chapter 253B, or the adult's commitment has been stayed or continued; or

(5) the adult (i) was eligible under clauses (1) to (4), but the specified time period has expired or the adult was eligible as a child under section 245.4871, subdivision 6; and (ii) has a written opinion from a mental health professional, in the last three years, stating that the adult is reasonably likely to have future episodes requiring inpatient or residential treatment, of a frequency described in clause (1) or (2), unless ongoing case management or community support services are provided.

Sec. 16. Minnesota Statutes 2000, section 253.015, subdivision 2, is amended to read:

Subd. 2. **PLAN FOR NEEDED REGIONAL TREATMENT CENTER SERVICES.** (a) By January 30, 1990, the commissioner shall develop and submit to the legislature a plan to implement a program for persons in southeastern Minnesota who are mentally ill.

(b) By January 1, 1990, the commissioner shall develop a plan to establish a comprehensive brain injury treatment program at the Faribault regional center site to meet the needs of people with brain injuries in Minnesota. The program shall provide postacute, community integration and family support services for people with brain injuries which have resulted in behavior, cognitive, emotional, communicative and mobility impairments or deficits. The plan shall include development of a brain injury residential unit, a functional evaluation outpatient clinic and an adaptive equipment center within the outpatient clinic. Health care services already available at the regional

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center or from the Faribault community must be utilized, and the plan shall include provisions and cost estimates for capital improvements, staff retraining, and program start-up costs.

(c) By January 1, 1990, the commissioner shall develop a plan to establish 35 auxiliary beds at Brainerd regional treatment center for the Minnesota security hospital. The commissioner shall develop secure beds for mentally ill persons who are mentally ill as authorized in the worksheets of the house appropriations and senate finance committees. The commissioner shall finance the purchase or construction of these beds with the Minnesota housing finance agency. The commissioner shall make payments through the department of administration to the Minnesota housing finance agency in repayment of mortgage loans granted for the purposes of this section.

Sec. 17. Minnesota Statutes 2000, section 253.21, is amended to read:

**253.21 COMMITMENT; PROCEEDINGS; RESTORATION OF MENTAL HEALTH.**

When any person confined in the Minnesota correctional facility-Stillwater or the Minnesota correctional facility-St. Cloud is alleged to be mentally ill, the chief executive officer or other person in charge shall forthwith notify the commissioner of human services, who shall cause the prisoner to be examined by the court exercising probate jurisdiction of the county where the prisoner is confined, as in the case of other mentally ill persons who are mentally ill. In case the prisoner is found to be mentally ill, the prisoner shall be transferred by the order of the court to the Minnesota Security Hospital or to a state hospital for people who are mentally ill ~~people~~ in the discretion of the court, there to be kept and maintained as in the case of other mentally ill persons who are mentally ill. If, in the judgment of the chief executive officer, the prisoner's mental health is restored before the period of commitment to the penal institution has expired, the prisoner shall be removed by the commissioner, upon the certificate of the chief executive officer, to the institution whence the prisoner came to complete the sentence.

Sec. 18. Minnesota Statutes 2001 Supplement, section 253B.02, subdivision 13, is amended to read:

Subd. 13. **PERSON WHO IS MENTALLY ILL PERSON.** (a) A "person who is mentally ill person" 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 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 deteriora-

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tion 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) mental retardation;

(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. 19. Minnesota Statutes 2000, section 253B.02, subdivision 17, is amended to read:

Subd. 17. **PERSON WHO IS MENTALLY ILL AND DANGEROUS TO THE PUBLIC.** A "person who is mentally ill and dangerous to the public" is a person (a) who is mentally ill; and (b) 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. 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. 20. Minnesota Statutes 2000, section 253B.02, subdivision 18, is amended to read:

Subd. 18. **REGIONAL TREATMENT CENTER.** "Regional treatment center" means any state-operated facility for persons who are mentally ill, mentally retarded, or chemically dependent persons which is under the direct administrative authority of the commissioner.

Sec. 21. Minnesota Statutes 2000, section 253B.02, subdivision 19, is amended to read:

Subd. 19. **TREATMENT FACILITY.** "Treatment facility" means a hospital, community mental health center, or other treatment provider qualified to provide care and treatment for persons who are mentally ill, mentally retarded, or chemically dependent persons.

Sec. 22. Minnesota Statutes 2000, section 253B.06, subdivision 1, is amended to read:

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Subdivision 1. **PERSONS WHO ARE MENTALLY ILL AND MENTALLY RETARDED PERSONS.** Every patient hospitalized as mentally ill or mentally retarded pursuant to section 253B.04 or 253B.05 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 mentally retarded ~~person~~.

Sec. 23. Minnesota Statutes 2001 Supplement, 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, mentally retarded, or chemically dependent ~~person~~ 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, 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, and regional treatment center services. 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 the court finds a proposed patient to be a person who is mentally ill ~~person~~ 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.

Sec. 24. Minnesota Statutes 2000, 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, mentally retarded, or chemically dependent is discharged from commitment within the first 60 days after the date of the initial commitment order, the head of the treatment facility 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, mentally retarded, or chemically dependent 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 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:

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- (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 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) whether the administration of neuroleptic 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 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, 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 treatment, the proceedings must be terminated by the committing court and the patient discharged from the treatment facility.

Sec. 25. Minnesota Statutes 2000, section 253B.141, subdivision 2, is amended to read:

Subd. 2. **APPREHENSION; RETURN TO FACILITY.** (a) Upon receiving the report of absence from the head of the treatment facility or the committing court, a patient may be apprehended and held by a peace officer in any jurisdiction pending return to the facility from which the patient is absent without authorization. A patient may also be returned to any facility operated by the commissioner. A person who is mentally ill and dangerous person, a sexual psychopathic personality patient, or a sexually dangerous person committed under section 253B.18 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.

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(b) If a patient is detained under this subdivision, the head of the treatment facility 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. The expense of detaining and transporting a patient shall be the responsibility of the treatment facility from which the patient is absent. The expense of detaining and transporting a patient to a treatment facility operated by the department of human services shall be paid by the commissioner unless paid by the patient or persons on behalf of the patient.

Sec. 26. Minnesota Statutes 2000, section 253B.15, subdivision 1, is amended to read:

Subdivision 1. **PROVISIONAL DISCHARGE.** The head of the treatment facility 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 dangerous to the public.

Each patient released on provisional discharge shall have a written aftercare plan developed which specifies the services and treatment to be provided as part of the aftercare 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 plan shall be provided to the patient, the patient's attorney, and the designated agency.

The aftercare plan shall be reviewed on a quarterly basis by the patient, designated agency and other appropriate persons. The aftercare 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. 27. Minnesota Statutes 2000, section 253B.16, subdivision 1, is amended to read:

Subdivision 1. **DATE.** The head of a treatment facility shall discharge any patient admitted as a person who is mentally ill, chemically dependent, or a person with mental retardation 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 certifies that the person is no longer in need of care and treatment or at the conclusion of any period of time specified in the commitment order, whichever occurs first. The head of a treatment facility shall discharge any person admitted as mentally retarded, 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, 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.

Sec. 28. Minnesota Statutes 2000, section 253B.17, subdivision 1, is amended to read:

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Subdivision 1. **PETITION.** Any patient, except one committed as a person who is 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 a person who is mentally ill, mentally retarded, or chemically dependent, or for any other relief. A patient committed as a person who is mentally ill or mentally ill and dangerous may petition the committing court or the court to which venue has been transferred for a hearing concerning the administration of neuroleptic medication.

Sec. 29. Minnesota Statutes 2000, 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 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 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 a person who 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. 30. Minnesota Statutes 2000, 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 a person who is 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.

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(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 a person who is mentally ill, but not as a person who is mentally ill and dangerous to the public, the court may commit the person as a person who is 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 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.

Sec. 31. Minnesota Statutes 2000, 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 dangerous, 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 dangerous to the public, the patient shall be transferred, provisionally discharged or discharged, only as provided in this section.

Sec. 32. Minnesota Statutes 2000, 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 dangerous and who is confined at a secure treatment facility 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 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. 33. Minnesota Statutes 2000, section 253B.18, subdivision 4b, is amended to read:

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Subd. 4b. **PASS-ELIGIBLE STATUS; NOTIFICATION.** 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) a patient who has been committed as a person who is mentally ill and dangerous and who:

(1) 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) was convicted of a felony immediately prior to or during commitment as a person who is mentally ill and dangerous; or

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

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

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 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.

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. 34. Minnesota Statutes 2000, section 253B.18, subdivision 6, is amended to read:

Subd. 6. **TRANSFER.** A patient who is mentally ill and dangerous patients 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 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.

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

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

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

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(iii) the need for continued institutionalization;

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

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

Sec. 35. Minnesota Statutes 2000, section 253B.18, subdivision 7, is amended to read:

**Subd. 7. PROVISIONAL DISCHARGE.** A patient who is mentally ill and dangerous patients 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.

The following factors are to be considered in determining whether a provisional discharge shall be recommended: (a) 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 (b) 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. 36. Minnesota Statutes 2000, section 253B.18, subdivision 15, is amended to read:

**Subd. 15. DISCHARGE.** A patient who is mentally ill and dangerous patient 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 inpatient treatment and supervision.

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. 37. Minnesota Statutes 2000, 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 who are 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. 38. Minnesota Statutes 2000, section 253B.19, subdivision 2, is amended to read:

Subd. 2. **PETITION; HEARING.** The committed person or the county attorney of the county from which a patient was committed as a person who is mentally ill and dangerous to the public, or as a sexual psychopathic personality or as a sexually dangerous person may petition the appeal panel for a rehearing and reconsideration of a decision by the commissioner. The petition shall be filed with the supreme court within 30 days after the decision of the commissioner is signed. The supreme court shall refer the petition to the chief judge of the appeal panel. The chief judge shall notify the patient, the county attorney of the county of commitment, the designated agency, the commissioner, the head of the treatment facility, any interested person, and other persons the chief judge designates, of the time and place of the hearing on the petition. The notice shall be given at least 14 days prior to the date of the hearing. The hearing shall be within 45 days of the filing of the petition unless an extension is granted for good cause. 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 proceedings. The patient, patient's counsel, and the county attorney of the committing county may be present and present and cross-examine all witnesses. The petitioning party bears the burden of going forward with the evidence. The party opposing discharge bears the burden of proof by clear and convincing evidence that the respondent is in need of commitment.

Sec. 39. Minnesota Statutes 2000, section 253B.212, subdivision 2, is amended to read:

Subd. 2. **EFFECT GIVEN TO TRIBAL COMMITMENT ORDER.** When, under an agreement entered into pursuant to subdivision 1, the Indian Health Service applies to a regional center for admission of a person committed to the jurisdiction of the health service by the tribal court as a person who is mentally ill, mentally retarded, or chemically dependent, the commissioner may treat the patient with the consent of the Indian Health Service.

A person admitted to a regional center 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 within 60 days of commencement of the patient's stay at the facility. A subsequent treatment report shall be filed with the Indian Health Service within six months of the patient's admission to the facility or prior to discharge, whichever comes

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first. Provisional discharge or transfer of the patient may be authorized by the head of the treatment facility only with the consent of the Indian Health Service. Discharge from the facility to the Indian Health Service may be authorized by the head of the treatment facility after notice to and consultation with the Indian Health Service.

Sec. 40. Minnesota Statutes 2000, section 256E.03, subdivision 2, is amended to read:

Subd. 2. (a) "Community social services" means services provided or arranged for by county boards to fulfill the responsibilities prescribed in section 256E.08, subdivision 1, to the following groups of persons:

(1) families with children under age 18, who are experiencing child dependency, neglect or abuse, and also pregnant adolescents, adolescent parents under the age of 18 and their children, and other adolescents;

(2) persons, including adolescents, who are under the guardianship of the commissioner of human services as dependent and neglected wards;

(3) adults who are in need of protection and vulnerable as defined in section 626.5572;

(4) persons age 60 and over who are experiencing difficulty living independently and are unable to provide for their own needs;

(5) emotionally disturbed children and adolescents, persons who are chronically and acutely mentally ill ~~persons~~ and who are unable to provide for their own needs or to independently engage in ordinary community activities;

(6) persons with mental retardation as defined in section 252A.02, subdivision 2, or with related conditions as defined in section 252.27, subdivision 1a, who are unable to provide for their own needs or to independently engage in ordinary community activities;

(7) drug dependent and intoxicated persons, including adolescents, as defined in section 254A.02, subdivisions 5 and 7, and persons, including adolescents, at risk of harm to self or others due to the ingestion of alcohol or other drugs;

(8) parents whose income is at or below 70 percent of the state median income and who are in need of child care services in order to secure or retain employment or to obtain the training or education necessary to secure employment;

(9) children and adolescents involved in or at risk of involvement with criminal activity; and

(10) other groups of persons who, in the judgment of the county board, are in need of social services.

(b) Except as provided in section 256E.08, subdivision 5, community social services do not include public assistance programs known as the Minnesota family investment program, Minnesota supplemental aid, medical assistance, general assis-

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tance, general assistance medical care, or community health services authorized by sections 145A.09 to 145A.13.

Sec. 41. Minnesota Statutes 2000, section 299F.77, is amended to read:

**299F.77 ISSUANCE TO CERTAIN PERSONS PROHIBITED.**

The following persons shall not be entitled to receive an explosives license or permit:

- (1) a person under the age of 18 years;
- (2) a person who has been convicted in this state or elsewhere of a crime of violence, as defined in section 299F.72, subdivision 1b, unless ten years have elapsed since the person's civil rights have been restored or the sentence has expired, whichever occurs first, and during that time the person has not been convicted of any other crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions that would have been crimes of violence if they had been committed in this state;
- (3) a person who is or has ever been confined or committed in Minnesota or elsewhere as a "person who is mentally ill," "mentally retarded," or "mentally ill and dangerous to the public" ~~person~~, as defined in section 253B.02, to a treatment facility, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person is no longer suffering from this disability;
- (4) a person who has been convicted in Minnesota or elsewhere for the unlawful use, possession, or sale of a controlled substance other than conviction for possession of a small amount of marijuana, as defined in section 152.01, subdivision 16, or who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person has not abused a controlled substance or marijuana during the previous two years; and
- (5) a person who has been confined or committed to a treatment facility in Minnesota or elsewhere as "chemically dependent," as defined in section 253B.02, unless the person has completed treatment.

Sec. 42. Minnesota Statutes 2000, section 376.01, is amended to read:

**376.01 ACQUISITION OF LAND.**

A county board may acquire land in the county for hospital purposes for patients, other than the for persons who are mentally ill.

Sec. 43. Minnesota Statutes 2000, section 376.02, is amended to read:

**376.02 BUILDINGS.**

A county board may purchase or construct suitable buildings for hospital purposes for patients, other than the for persons who are mentally ill, on any land acquired under

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section 376.01, and may improve, equip, and maintain these buildings for hospital purposes. The county board may pay for these buildings out of any fund in the county treasury not otherwise appropriated or issue warrants or bonds of the county for payment. The county board may fix the time and terms of payment of these warrants or bonds and the amount of interest to be paid.

Sec. 44. Minnesota Statutes 2000, section 462A.02, subdivision 9, is amended to read:

Subd. 9. **SPECIAL NEEDS RESIDENTIAL CARE.** It is further declared that the health, welfare, and personal interests of the persons who are mentally ill, mentally retarded, physically handicapped, and drug dependent citizens of Minnesota and who are ~~and who~~ or may be in need of residential care are better served through the development of a comprehensive, community- based system of treatment and care which requires the availability of adequate financing for the construction, renovation, or rehabilitation of residential care facilities as well as sufficient funds for their operational start-up costs.

Sec. 45. Minnesota Statutes 2000, section 462A.03, subdivision 19, is amended to read:

Subd. 19. **RESIDENTIAL CARE FACILITY.** "Residential care facility" means a living unit established primarily for the accommodation and treatment of persons who are mentally ill, mentally retarded, physically handicapped, and drug dependent persons.

Sec. 46. Minnesota Statutes 2000, section 609.06, subdivision 1, is amended to read:

Subdivision 1. **WHEN AUTHORIZED.** Except as otherwise provided in subdivision 2, reasonable force may be used upon or toward the person of another without the other's consent when the following circumstances exist or the actor reasonably believes them to exist:

(1) when used by a public officer or one assisting a public officer under the public officer's direction:

- (a) in effecting a lawful arrest; or
- (b) in the execution of legal process; or
- (c) in enforcing an order of the court; or
- (d) in executing any other duty imposed upon the public officer by law; or

(2) when used by a person not a public officer in arresting another in the cases and in the manner provided by law and delivering the other to an officer competent to receive the other into custody; or

(3) when used by any person in resisting or aiding another to resist an offense against the person; or

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(4) when used by any person in lawful possession of real or personal property, or by another assisting the person in lawful possession, in resisting a trespass upon or other unlawful interference with such property; or

(5) when used by any person to prevent the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime; or

(6) when used by a parent, guardian, teacher, or other lawful custodian of a child or pupil, in the exercise of lawful authority, to restrain or correct such child or pupil; or

(7) when used by a school employee or school bus driver, in the exercise of lawful authority, to restrain a child or pupil, or to prevent bodily harm or death to another; or

(8) when used by a common carrier in expelling a passenger who refuses to obey a lawful requirement for the conduct of passengers and reasonable care is exercised with regard to the passenger's personal safety; or

(9) when used to restrain a person who is mentally ill or mentally defective person from self-injury or injury to another or when used by one with authority to do so to compel compliance with reasonable requirements for the person's control, conduct, or treatment; or

(10) when used by a public or private institution providing custody or treatment against one lawfully committed to it to compel compliance with reasonable requirements for the control, conduct, or treatment of the committed person.

Sec. 47. Minnesota Statutes 2000, section 609.668, subdivision 2, is amended to read:

Subd. 2. **POSSESSION BY CERTAIN PERSONS PROHIBITED.** The following persons are prohibited from possessing or reporting an explosive device or incendiary device:

(a) a person under the age of 18 years;

(b) a person who has been convicted in this state or elsewhere of a crime of violence unless ten years have elapsed since the person's civil rights have been restored or the sentence has expired, whichever occurs first, and during that time the person has not been convicted of any other crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions that would have been crimes of violence if they had been committed in this state;

(c) a person who is or has ever been confined or committed in Minnesota or elsewhere as a "person who is mentally ill," "mentally retarded," or "mentally ill and dangerous to the public" ~~person~~, as defined in section 253B.02, to a treatment facility, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person is no longer suffering from this disability;

(d) a person who has been convicted in Minnesota or elsewhere for the unlawful use, possession, or sale of a controlled substance other than conviction for possession

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of a small amount of marijuana, as defined in section 152.01, subdivision 16, or who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person has not abused a controlled substance or marijuana during the previous two years;

(e) a person who has been confined or committed to a treatment facility in Minnesota or elsewhere as "chemically dependent," as defined in section 253B.02, unless the person has completed treatment; and

(f) a peace officer who is informally admitted to a treatment facility under section 253B.04 for chemical dependency, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility.

A person who in good faith issues a certificate to a person described in this subdivision to possess or use an incendiary or explosive device is not liable for damages resulting or arising from the actions or misconduct with an explosive or incendiary device committed by the individual who is the subject of the certificate.

Sec. 48. Minnesota Statutes 2000, section 624.713, subdivision 1, is amended to read:

Subdivision 1. **INELIGIBLE PERSONS.** The following persons shall not be entitled to possess a pistol or semiautomatic military-style assault weapon or, except for clause (a), any other firearm:

(a) a person under the age of 18 years except that a person under 18 may carry or possess a pistol or semiautomatic military-style assault weapon (i) in the actual presence or under the direct supervision of the person's parent or guardian, (ii) for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision, (iii) for the purpose of instruction, competition, or target practice on a firing range approved by the chief of police or county sheriff in whose jurisdiction the range is located and under direct supervision; or (iv) if the person has successfully completed a course designed to teach marksmanship and safety with a pistol or semiautomatic military-style assault weapon and approved by the commissioner of natural resources;

(b) except as otherwise provided in clause (i), a person who has been convicted of, or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing, in this state or elsewhere, a crime of violence unless ten years have elapsed since the person has been restored to civil rights or the sentence or disposition has expired, whichever occurs first, and during that time the person has not been convicted of or adjudicated for any other crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions which would have been crimes of violence as herein defined if they had been committed in this state;

(c) a person who is or has ever been confined in Minnesota or elsewhere as a "person who is mentally ill," "mentally retarded," or "mentally ill and dangerous to the

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public~~2~~ person, as defined in section 253B.02, to a treatment facility, or who has ever been found incompetent to stand trial or not guilty by reason of mental illness, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof that the person is no longer suffering from this disability;

(d) a person who has been convicted in Minnesota or elsewhere of a misdemeanor or gross misdemeanor violation of chapter 152, or a person who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person has not abused a controlled substance or marijuana during the previous two years;

(e) a person who has been confined or committed to a treatment facility in Minnesota or elsewhere as "chemically dependent" as defined in section 253B.02, unless the person has completed treatment. Property rights may not be abated but access may be restricted by the courts;

(f) a peace officer who is informally admitted to a treatment facility pursuant to section 253B.04 for chemical dependency, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility. Property rights may not be abated but access may be restricted by the courts;

(g) a person, including a person under the jurisdiction of the juvenile court, who has been charged with committing a crime of violence and has been placed in a pretrial diversion program by the court before disposition, until the person has completed the diversion program and the charge of committing the crime of violence has been dismissed;

(h) except as otherwise provided in clause (i), a person who has been convicted in another state of committing an offense similar to the offense described in section 609.224, subdivision 3, against a family or household member or section 609.2242, subdivision 3, unless three years have elapsed since the date of conviction and, during that time, the person has not been convicted of any other violation of section 609.224, subdivision 3, or 609.2242, subdivision 3, or a similar law of another state;

(i) a person who has been convicted in this state or elsewhere of assaulting a family or household member and who was found by the court to have used a firearm in any way during commission of the assault is prohibited from possessing any type of firearm for the period determined by the sentencing court; or

(j) a person who:

(1) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice as a result of having fled from any state to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding;

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- (3) is an unlawful user of any controlled substance as defined in chapter 152;
- (4) has been judicially committed to a treatment facility in Minnesota or elsewhere as a "person who is mentally ill," "mentally retarded," or "mentally ill and dangerous to the public" person, as defined in section 253B.02;
- (5) is an alien who is illegally or unlawfully in the United States;
- (6) has been discharged from the armed forces of the United States under dishonorable conditions; or
- (7) has renounced the person's citizenship having been a citizen of the United States.

A person who issues a certificate pursuant to this subdivision in good faith is not liable for damages resulting or arising from the actions or misconduct with a firearm committed by the individual who is the subject of the certificate.

The prohibition in this subdivision relating to the possession of firearms other than pistols and semiautomatic military-style assault weapons does not apply retroactively to persons who are prohibited from possessing a pistol or semiautomatic military-style assault weapon under this subdivision before August 1, 1994.

Sec. 49. Minnesota Statutes 2000, section 631.50, is amended to read:

**631.50 ALIEN INMATES OR MENTALLY ILL PERSONS; REQUIRING NOTICE TO UNITED STATES IMMIGRATION OFFICERS.**

When a person who is convicted of a felony or is found to be a person who is mentally ill is committed to the Minnesota correctional facility-Stillwater, the Minnesota correctional facility-St. Cloud, the county jail, or any other state or county institution which is supported, wholly or in part, by public funds, the chief executive officer, sheriff, or other officer in charge of the state or county institution shall at once inquire into the nationality of the person. If it appears that the person is an alien, the officer shall immediately notify the United States immigration officer in charge of the district in which the correctional facility, jail, or other institution is located, of (1) the date of and the reasons for the alien commitment, (2) the length of time for which committed, (3) the country of which the alien is a citizen, and (4) the date on which and the port at which the alien last entered the United States.

**Sec. 50. REVISORS INSTRUCTION.**

In the next publication of Minnesota Rules, the revisor shall change references to "mentally ill person" or similar terminology wherever it appears in rules so that it is consistent with the changes in this act.

Presented to the governor February 25, 2002

Signed by the governor February 27, 2002, 2:26 p.m.

**CHAPTER 222—S.F.No. 3019**

*An act relating to public safety; expanding those persons who are required to register as a*

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