

**CHAPTER 69—S.F.No. 322**

*An act relating to civil commitment; expanding early intervention services; expanding the definition of chemically dependent person; amending Minnesota Statutes 2006, sections 253B.02, subdivision 2; 253B.065, subdivision 5; 626.5561, subdivisions 1, 2; repealing Minnesota Statutes 2006, section 626.5563.*

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

Section 1. Minnesota Statutes 2006, section 253B.02, subdivision 2, is amended to read:

Subd. 2. **Chemically dependent person.** "Chemically dependent person" means any person (a) determined as being incapable of self-management or management of personal affairs by reason of the habitual and excessive use of alcohol, drugs, or other mind-altering substances; and (b) whose recent conduct as a result of habitual and excessive use of alcohol, drugs, or other mind-altering substances poses a substantial likelihood of physical harm to self or others as demonstrated by (i) a recent attempt or threat to physically harm self or others, (ii) evidence of recent serious physical problems, or (iii) a failure to obtain necessary food, clothing, shelter, or medical care. "Chemically dependent person" also means a pregnant woman who has engaged during the pregnancy in habitual or excessive use, for a nonmedical purpose, of any of the following ~~controlled~~ substances or their derivatives: opium, cocaine, heroin, phencyclidine, methamphetamine, ~~or~~ amphetamine, tetrahydrocannabinol, or alcohol.

Sec. 2. Minnesota Statutes 2006, 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) or (c). The early intervention treatment must be less intrusive than long-term inpatient commitment and must be the least restrictive treatment program available that can meet the patient's treatment needs.

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

- (1) the proposed patient is mentally ill;
- (2) the proposed patient refuses to accept appropriate mental health treatment; and
- (3) the proposed patient's mental illness is manifested by instances of grossly disturbed behavior or faulty perceptions and either:
  - (i) the grossly disturbed behavior or faulty perceptions significantly interfere with the proposed patient's ability to care for self and the proposed patient, when competent, would have chosen substantially similar treatment under the same circumstances; or
  - (ii) due to the mental illness, the proposed patient received court-ordered inpatient treatment under section 253B.09 at least two times in the previous three years; the patient

is exhibiting symptoms or behavior substantially similar to those that precipitated one or more of the court-ordered treatments; and the patient is reasonably expected to physically or mentally deteriorate to the point of meeting the criteria for commitment under section 253B.09 unless treated.

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

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

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

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

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

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

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

Sec. 3. Minnesota Statutes 2006, section 626.5561, subdivision 1, is amended to read:

Subdivision 1. **Reports required.** A person mandated to report under section 626.556, subdivision 3, shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive. Any person may make a voluntary report if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive. An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the local welfare agency. Any report shall be of sufficient content to identify the pregnant woman, the nature and extent of the use, if known, and the name and address of the reporter.

Sec. 4. Minnesota Statutes 2006, section 626.5561, subdivision 2, is amended to read:

Subd. 2. **Local welfare agency.** ~~If the report alleges a pregnant woman's use of a controlled substance for a nonmedical purpose~~ Upon receipt of a report required under subdivision 1, the local welfare agency shall immediately conduct an appropriate

assessment and offer services indicated under the circumstances. Services offered may include, but are not limited to, a referral for chemical dependency assessment, a referral for chemical dependency treatment if recommended, and a referral for prenatal care. The local welfare agency may also take any appropriate action under chapter 253B, including seeking an emergency admission under section 253B.05. The local welfare agency shall seek an emergency admission under section 253B.05 if the pregnant woman refuses recommended voluntary services or fails recommended treatment.

Sec. 5. **REPEALER.**

Minnesota Statutes 2006, section 626.5563, is repealed.

Presented to the governor May 11, 2007

Signed by the governor May 14, 2007, 5:05 p.m.