Subd. 2. **DEDICATED ACCOUNT.** If fee receipts exceed $1,395,000 for the period July 1, 1982 to June 30, 1983, the commissioner of finance shall deposit the amount over $1,395,000 in the snowmobile trails and enforcement account created in section 3 on July 1, 1983.

Sec. 7. **EFFECTIVE DATE.**

Section 3 is effective July 1, 1983. The remaining sections are effective August 1, 1982.

Approved March 22, 1982

CHAPTER 581 — H.F.No. 1499

An act relating to the commitment of persons who are mentally ill, mentally ill and dangerous, mentally retarded, or chemically dependent; providing for informal institutionalization by consent, involuntary emergency institutionalization and for involuntary commitment by civil judicial procedures; providing for rights of persons hospitalized under voluntary, emergency or involuntary judicial procedures; requiring pre-petition screening; providing for commitment hearings and procedures in conformance with due process; requiring a final hearing before final determination of commitment; providing for commitment for determinate periods; providing for provisional discharge and partial institutionalization; requiring special review boards for mentally ill and dangerous and psychopathic personalities; establishing review boards for civilly committed persons; providing penalties; proposing new law coded as Minnesota Statutes, Chapter 253B; repealing Minnesota Statutes 1980, Sections 253A.01 to 253A.23.

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

Section 1. **[253B.01] CITATION.**

This chapter may be cited as the "Minnesota Commitment Act of 1982."

Sec. 2. **[253B.02] DEFINITIONS.**

Subdivision 1. **DEFINITIONS.** For purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **CHEMICALLY DEPENDENT PERSON.** "Chemically dependent person" means any person (a) determined as being incapable of managing himself or his affairs by reason of the habitual and excessive use of alcohol or drugs; and (b) whose recent conduct as a result of habitual and excessive use of alcohol or drugs poses a substantial likelihood of physical harm to himself or others as demonstrated by (i) a recent attempt or threat to physically harm himself or others, (ii) evidence of recent serious physical problems, or (iii) a failure to provide necessary food, clothing, shelter, or medical care for himself.

Subd. 3. **COMMISSIONER.** "Commissioner" means the commissioner of public welfare or his designee.

Subd. 4. **COMMITTING COURT.** "Committing court" means probate court.

Subd. 5. **DESIGNATED AGENCY.** "Designated agency" means an agency selected by the county board to provide services under this chapter.

Subd. 6. **EMERGENCY TREATMENT.** "Emergency treatment" means the treatment of a patient pursuant to section 5 which is necessary to protect the patient or others from immediate harm.

Subd. 7. **EXAMINER.** "Examiner" means a licensed physician or a licensed consulting psychologist, knowledgeable, trained and practicing in the diagnosis and treatment of the alleged impairment.

Subd. 8. **HEAD OF THE TREATMENT FACILITY.** "Head of the treatment facility" means the person who is charged with overall responsibility for the professional program of care and treatment of the facility or his designee.

Subd. 9. **HEALTH OFFICER.** "Health officer" means a licensed physician, licensed consulting psychologist, psychiatric social worker, or psychiatric or public health nurse and formally designated members of a pre-petition screening unit established by section 7.

Subd. 10. **INTERESTED PERSON.** "Interested person" means an adult, including but not limited to, a public official, and the legal guardian, spouse, parent, legal counsel, adult child, next of kin, or other person designated by a proposed patient.

Subd. 11. **LICENSED CONSULTING PSYCHOLOGIST.** "Licensed consulting psychologist" means a person as defined by section 148.91, subdivision 4.

Subd. 12. **LICENSED PHYSICIAN.** "Licensed physician" means a person licensed in Minnesota to practice medicine or a medical officer of the government of the United States in performance of his official duties.

Subd. 13. **MENTALLY ILL PERSON.** "Mentally ill person" means any person who has 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 (a) is manifested by instances of grossly disturbed behavior or faulty perceptions; and (b) poses a substantial likelihood of physical harm to himself or others as demonstrated by (i) a recent attempt or threat to physically harm himself or others, or (ii) a failure to provide necessary food, clothing, shelter or medical care for himself, as a result of the impairment. This impairment excludes (a) epilepsy, (b) mental retardation, (c) brief periods of intoxication caused by alcohol or drugs, or (d) dependence upon or addiction to any alcohol or drugs.

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

Subd. 15. PATIENT. "Patient" means any person who is institutionalized or committed under this chapter.

Subd. 16. PEACE OFFICER. "Peace officer" means a sheriff, or municipal or other local police officer, or a state highway patrol officer when engaged in the authorized duties of his office.

Subd. 17. PERSON MENTALLY ILL AND DANGEROUS TO THE PUBLIC. A "person 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 diagnosed as having a psychopathic personality as defined in section 526.09 is also a person mentally ill and dangerous to the public.

Subd. 18. REGIONAL CENTER. "Regional center" means any state operated facility for mentally ill, mentally retarded or chemically dependent persons which is under the direct administrative authority of the commissioner of public welfare.

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

Sec. 3. [253B.03] RIGHTS OF PATIENTS.

Subdivision 1. RESTRAINTS. A patient has the right to be free from restraints. Restraints shall not be applied to a patient unless the head of the treatment facility or a member of the medical staff determines that they are necessary for the safety of the patient or others. Each use of a restraint and reason for it shall be made part of the clinical record of the patient under the signature of the head of the treatment facility.

Subd. 2. CORRESPONDENCE. A patient has the right to correspond freely without censorship. The head of the treatment facility may restrict correspondence if he determines that the medical welfare of the patient requires

it. The determination may be reviewed by the commissioner. Any limitation imposed on the exercise of a patient's correspondence rights and the reason for it shall be made a part of the clinical record of the patient. Any communication which is not delivered to a patient shall be immediately returned to the sender.

Subd. 3. **VISITORS AND PHONE CALLS.** Subject to the general rules of the treatment facility, a patient has the right to receive visitors and make phone calls. The head of the treatment facility may restrict visits and phone calls if he determines that the medical welfare of the patient requires it. Any limitation imposed on the exercise of the patient's visitation and phone call rights and the reason for it shall be made a part of the clinical record of the patient.

Subd. 4. **SPECIAL VISITATION; RELIGION.** A patient has the right to meet with or call his personal physician, spiritual advisor, and counsel at all reasonable times. The patient has the right to continue the practice of his religion.

Subd. 5. **PERIODIC ASSESSMENT.** A patient has the right to periodic medical assessment. The head of a treatment facility shall have the physical and mental condition of every patient assessed as frequently as necessary, but not less often than annually.

Subd. 6. **CONSENT FOR MEDICAL PROCEDURE.** A patient has the right to prior consent to any medical or surgical treatment, other than the treatment of mental illness, mental retardation or chemical dependency. The following procedures shall be used to obtain consent for any treatment necessary to preserve the life or health of any committed patient:

(1) The consent of a competent adult patient for the treatment is sufficient.

(2) If the patient is subject to guardianship or conservatorship which includes the provision of medical care, the consent of the guardian or conservator for the treatment is sufficient.

(3) If the head of the treatment facility determines that the patient is not competent to consent to the treatment and the patient has not been adjudicated incompetent, consent for the surgery shall be obtained from the nearest proper relative. For this purpose, the following persons are proper relatives, in the order listed: the patient's spouse, parent, adult child, or adult sibling. If the nearest proper relatives cannot be located or refuse to consent to the procedure, the head of the treatment facility or an interested person may petition the committing court for approval for the treatment or may petition an appropriate court for the appointment of a guardian or conservator. The determination that the patient is not competent, and the reasons for the determination, shall be documented in the patient's clinical record.

(4) Consent for a medical procedure upon a minor shall be governed by other provisions of law relating to the provision of treatment to minors.

(5) In the case of an emergency and when the persons ordinarily qualified to give consent cannot be located, the head of the treatment facility may give consent.

No person who consents to treatment pursuant to the provisions of this subdivision shall be civilly or criminally liable for the performance or the manner of performing the treatment. No person shall be liable for performing treatment without consent if consent was given pursuant to this subdivision. This provision shall not affect any other liability which may result from the manner in which the treatment is performed.

Subd. 7. **PROGRAM PLAN.** A person receiving services under this chapter has the right to receive proper care and treatment, best adapted, according to contemporary professional standards, to rendering further custody, institutionalization, or other services unnecessary. The treatment facility shall devise a written program plan for each person which describes in behavioral terms the case problems, the precise goals, including the expected period of time for treatment, and the specific measures to be employed. Each plan shall be reviewed at least quarterly to determine progress toward the goals, and to modify the program plan as necessary. The program plan shall be devised and reviewed with the designated agency and with the patient. The clinical record shall reflect the program plan review. If the designated agency or the patient does not participate in the planning and review, the clinical record shall include reasons for non-participation and the plans for future involvement. The commissioner shall monitor the program plan and review process for regional centers to insure compliance with the provisions of this subdivision.

Subd. 8. **MEDICAL RECORDS.** A patient has the right to access to his medical records. Notwithstanding the provisions of section 144.335, subdivision 2, every person subject to a proceeding or receiving services pursuant to this chapter shall have complete access to all of his medical records relevant to his commitment.

Subd. 9. **RIGHT TO COUNSEL.** A patient has the right to be represented by counsel at any proceeding under this chapter. The court shall appoint counsel to represent the proposed patient if neither the proposed patient nor others provide counsel. Counsel shall be appointed at the time a petition is filed pursuant to section 7. Counsel shall have the full right of subpoena. In all proceedings under this chapter, counsel shall: (1) consult with the person prior to any hearing; (2) be given adequate time to prepare for all hearings; (3) continue to represent the person throughout any proceedings under this charge unless released as counsel by the court; and (4) be a vigorous advocate on behalf of his client.

Subd. 10. **NOTIFICATION.** All persons admitted or committed to a treatment facility shall be notified in writing of their rights under this chapter at the time of admission.

Sec. 4. [253B.04] INFORMAL ADMISSION PROCEDURES.

Subdivision 1. ADMISSION. Informal admission by consent is preferred over involuntary commitment. Any person 16 years of age or older may request to be admitted to a treatment facility as an informal patient for observation, evaluation, diagnosis, care and treatment without making formal written application. The head of the treatment facility shall not arbitrarily withhold consent.

Subd. 2. RELEASE. Every patient admitted for mental illness or mental retardation under this section shall be informed in writing at the time of his admission that he has a right to leave the facility within 12 hours of his request, unless held under another provision of this chapter. Every patient admitted for chemical dependency under this section shall be informed in writing at the time of his admission that he has a right to leave the facility within 72 hours, exclusive of Satudays, Sundays and holidays, of his request, unless held under another provision of this chapter. The request shall be submitted in writing to the head of the treatment facility. If the head of the treatment facility deems it to be in the best interest of the person, his family, or the public, he shall petition for the commitment of the person pursuant to section 7.

Sec. 5. [253B.05] EMERGENCY ADMISSION.

Subdivision 1. EMERGENCY HOLD. Any person may be admitted or held for emergency care and treatment in a treatment facility with the consent of the head of the treatment facility upon a written statement by an examiner that: (1) he has examined the person not more than 15 days prior to admission, (2) he is of the opinion, for stated reasons, that the person is mentally ill, mentally retarded or chemically dependent, and is in imminent danger of causing injury to himself or others if not immediately restrained, and (3) an order of the court cannot be obtained in time to prevent the anticipated injury.

The statement shall be: (1) sufficient authority for a peace or health officer to transport a patient to a treatment facility, (2) stated in behavioral terms and not in conclusory language, and (3) of sufficient specificity to provide an adequate record for review. A copy of the statement shall be personally served on the person immediately upon admission. A copy of the statement shall be maintained by the treatment facility.

Subd. 2. PEACE OR HEALTH OFFICER HOLD. (a) A peace or health officer may take a person into custody and transport him to a licensed physician or treatment facility if the officer has reason to believe that the person is mentally ill, mentally retarded or chemically dependent and in imminent danger of injuring himself or others if not immediately restrained. If the person is believed to be chemically dependent and is not endangering himself or any person or property, the peace or health officer may transport the person to his home. Application for admission of the person to a treatment facility shall be

made by the peace or health officer. The application shall contain a statement given by the peace or health officer specifying the reasons for and circumstances under which the person was taken into custody. A copy of the statement shall be made available to the person taken into custody.

(b) A person may be admitted to a treatment facility for emergency care and treatment under this subdivision with the consent of the head of the facility if a written statement is made by the medical officer on duty at the facility that after preliminary examination the person has symptoms of mental illness, mental retardation or chemical dependency and appears to be in imminent danger of harming himself or others.

Subd. 3. **DURATION OF HOLD.** Any person held pursuant to this section may be held up to 72 hours, exclusive of Saturdays, Sundays, and legal holidays, after admission unless a petition for the commitment of the person has been filed in the probate court of the county of the person's residence or of the county in which the facility is located and the court issues an order pursuant to section 7, subdivision 6. If the head of the facility believes that commitment is required and no petition has been filed, he shall file a petition for the commitment of the person. The hospitalized person may move to have the venue of the petition changed to the probate court of the county of his residence, if he is a resident of Minnesota.

Subd. 4. **CHANGE OF STATUS.** Any person admitted pursuant to this section shall be changed to the informal status provided by section 4 upon his request in writing and with the consent of the head of the treatment facility.

Subd. 5. **NOTICE.** Every person held pursuant to this section shall be informed in writing at the time of admission of his rights to leave after 72 hours, to a medical examination within 48 hours, to change of venue, and to change to informal status. The head of the treatment facility shall, upon request, assist the person in exercising the rights granted in this subdivision.

Sec. 6. [253B.06] **MEDICAL EXAMINATION.** The head of a treatment facility shall arrange to have every patient hospitalized pursuant to section 4 or section 5 examined by a physician as soon as possible but no more than 48 hours following the time of admission.

At the end of a 48 hour period, any patient admitted pursuant to section 5 shall be discharged if an examination has not been held or if the examiner fails to notify the head of the treatment facility in writing that in his opinion the patient is apparently in need of care, treatment, and evaluation as a mentally ill, mentally retarded, or chemically dependent person.

Sec. 7. [253B.07] **JUDICIAL COMMITMENT; PRELIMINARY PROCEDURES.**

Subdivision 1. **PRE-PETITION SCREENING.** (a) Prior to filing a petition for commitment of a proposed patient, a prospective petitioner shall apply to the designated agency in the county of the proposed patient's residence or presence for conduct of a preliminary investigation. The designated agency shall appoint a screening team to conduct an investigation which shall include:

(i) a personal interview with the proposed patient and other individuals who appear to have knowledge of the condition of the proposed patient. If the proposed patient is not interviewed, reasons must be documented;

(ii) identification and investigation of specific alleged conduct which is the basis for application; and

(iii) identification, exploration, and listing of the reasons for rejecting or recommending alternatives to involuntary placement.

(b) In conducting the investigation required by this subdivision, the screening team shall have access to all relevant medical records of proposed patients currently in treatment facilities. Data collected pursuant to this clause shall be considered private data on individuals.

(c) When the pre-petition screening team recommends commitment, a written report shall be sent to the county attorney for the county in which the petition is to be filed.

(d) The pre-petition screening team shall refuse to support a petition if the investigation does not disclose evidence sufficient to support commitment. Notice of the pre-petition screening team's decision shall be provided to the prospective petitioner.

(e) If the interested person wishes to proceed with a petition contrary to the recommendation of the pre-petition screening team, application may be made directly to the county attorney, who may determine whether or not to proceed with the petition. Notice of the county attorney's determination shall be provided to the interested party.

(f) If a court petitions for commitment pursuant to the rules of criminal procedure, the pre-petition investigation required by this section shall be completed within seven days after the filing of the petition.

Subd. 2. **THE PETITION.** Any interested person may file a petition for commitment in the probate court of the county of the proposed patient's residence or presence. The petition shall set forth the name and address of the proposed patient, the name and address of his nearest relatives, and the reasons for the petition. The petition must contain factual descriptions of the proposed patient's recent behavior, including a description of the behavior, where it occurred, and over what period of time it occurred. Each factual allegation must be supported by observations of witnesses named in the petition. Petitions shall be stated in behavioral terms and shall not contain judgmental or conclusory

statements. The petition shall be accompanied by a written statement by an examiner stating that he has examined the proposed patient within the 15 days preceding the filing of the petition and is of the opinion that the proposed patient is suffering a designated disability and should be committed to a treatment facility. The statement shall include the reasons for the opinion. If a petitioner has been unable to secure a statement from an examiner, the petition shall include documentation that a reasonable effort has been made to secure the supporting statement.

Subd. 3. **EXAMINERS.** After a petition has been filed, the probate court shall appoint an examiner. At the proposed patient's request, the court shall appoint a second examiner of the patient's choosing to be paid for by the county at a rate of compensation fixed by the court.

Subd. 4. **PRE-HEARING EXAMINATION; NOTICE AND SUMMONS PROCEDURE.** A summons to appear for a pre-hearing examination and the commitment hearing shall be served upon the proposed patient. A plain language notice of the proceedings and notice of the filing of the petition, a copy of the petition, a copy of the physician's supporting statement, and the order for examination and a copy of the pre-petition screening report shall be given to the proposed patient, his counsel, the petitioner, any interested person, and any other persons as the court directs. All papers shall be served personally on the *proposed patient. Unless otherwise ordered by the court, the notice shall be* served on the proposed patient by a non-uniformed person.

Subd. 5. **PRE-HEARING EXAMINATION; REPORT.** The examination shall be held at a treatment facility or other suitable place the court determines is not likely to have a harmful effect on the health of the proposed patient. The county attorney and the patient's attorney may be present during the examination. Either party may waive this right. Unless otherwise agreed by the counsel for the proposed patient, a court appointed examiner shall file three copies of his report with the court not less than 48 hours prior to the hearing. Copies of the examiner's report shall be sent to the proposed patient and his counsel.

Subd. 6. **APPREHEND AND HOLD ORDERS.** When (1) there has been a particularized showing by the petitioner that serious imminent physical harm to the proposed patient or others is likely unless the proposed patient is apprehended, (2) the proposed patient has not voluntarily appeared for the examination or the commitment hearing pursuant to the summons, or (3) a request for a petition for commitment of a person institutionalized pursuant to section 5 has been filed, the court may order the treatment facility to hold the person if he is institutionalized or direct a health officer, peace officer, or other person to take the proposed patient into custody and transport him to a treatment facility for observation, evaluation, diagnosis, care, treatment, and, if necessary, confinement. The order of the court may be executed on any day and at any

time by the use of all necessary means including the imposition of necessary restraint upon the proposed patient. Unless otherwise ordered by the court, a peace officer taking the proposed patient into custody pursuant to this subdivision shall not be in uniform and shall not use a motor vehicle visibly marked as a police vehicle.

Subd. 7. **PRELIMINARY HEARING.** (a) No proposed patient may be held pursuant to subdivision 6 for longer than 72 hours, exclusive of Saturdays, Sundays, and legal holidays, unless the court holds a preliminary hearing and determines that probable cause exists to continue to hold him.

(b) The proposed patient, his counsel, the petitioner, the county attorney, and any other persons as the court directs shall be given at least 24 hours written notice of the preliminary hearing. The notice shall include the alleged grounds for confinement. The proposed patient shall be represented at the preliminary hearing by counsel. If the court finds it to be reliable, it may admit hearsay evidence, including written reports.

(c) The court may order the continued holding of the proposed patient if it finds, by a preponderance of the evidence, that serious imminent physical harm to the patient or others is likely if the proposed patient is not confined.

Sec. 8. **[253B.08] JUDICIAL COMMITMENT; HEARING PROCEDURES.**

Subdivision 1. **TIME FOR COMMITMENT HEARING.** The hearing on the commitment petition shall be held within 14 days from the date of the filing of the petition. For good cause shown, the court may extend the time of hearing up to an additional 30 days. When any proposed patient has not had a hearing on a petition filed for his commitment within the allowed time, the proceedings shall be dismissed. The proposed patient, or the head of the treatment facility in which he is held, may demand in writing at any time that the hearing be held immediately. Unless the hearing is held within five days of the date of the demand, exclusive of Saturdays, Sundays and legal holidays, the petition shall be automatically discharged if the patient is being held in a treatment facility pursuant to court order. For good cause shown, the court may extend the time of hearing on the demand for an additional ten days.

Subd. 2. **NOTICE OF HEARING.** The proposed patient, his counsel, the petitioner, and any other persons as the court directs shall be given at least five days' notice that a hearing will be held and at least two days' notice of the time and date of the hearing, except that any person may waive notice. Notice to the proposed patient may be waived by patient's counsel. If the proposed patient has no residence in this state, the commissioner shall be notified of the proceedings by the court.

Subd. 3. **RIGHT TO ATTEND AND TESTIFY.** All persons to whom notice has been given may attend the hearing and, except for the proposed

patient's counsel, may testify. The court shall notify them of their right to attend the hearing and to testify. The court may exclude any person not necessary for the conduct of the proceedings from the hearings except any person requested to be present by the proposed patient. Nothing in this section shall prevent the court from ordering the sequestration of any witness or witnesses other than the petitioner or proposed patient.

Subd. 4. **WITNESSES.** The proposed patient or his counsel and the petitioner may present and cross-examine witnesses, including examiners, at the hearing. The court may in its discretion receive the testimony of any other person. Opinions of court-appointed examiners shall not be admitted into evidence unless the examiner is present to testify, except by agreement of the parties.

Subd. 5. **ABSENCE PERMITTED.** The court may permit the proposed patient to waive his right to attend the hearing if it determines that the waiver is freely given. All waivers shall be on the record. At the time of the hearing the patient shall not be so under the influence or suffering from the effects of drugs, medication, or other treatment so as to be hampered in participating in the proceedings. When in the opinion of the licensed physician or licensed consulting psychologist attending the patient the discontinuance of drugs, medication, or other treatment is not in the best interest of the patient, the court, at the time of the hearing, shall be presented a record of all drugs, medication or other treatment which the patient has received during the 48 hours immediately prior to the hearing.

Subd. 6. **PLACE OF HEARING.** The hearing shall be conducted in a manner consistent with orderly procedure. The hearing shall be held at a courtroom meeting standards prescribed by local court rule which may be at a treatment facility.

Subd. 7. **EVIDENCE.** The court shall admit all relevant evidence at the hearing. The court shall make its determination upon the entire record pursuant to the rules of evidence.

Subd. 8. **RECORD REQUIRED.** The court shall keep accurate records containing, among other appropriate materials, notations of appearances at the hearing, including witnesses, motions made and their disposition, and all waivers of rights made by the parties. The court shall take and preserve an accurate stenographic record or tape recording of the proceedings.

Sec. 9. **[253B.09] DECISION; STANDARD OF PROOF; DURATION.**

Subdivision 1. **STANDARD OF PROOF.** If the court finds by clear and convincing evidence that the proposed patient is a mentally ill, mentally retarded, or chemically dependent person and, that after careful consideration of reasonable alternative dispositions, including but not limited to, dismissal of

petition, voluntary outpatient care, informal 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 facility which can meet the patient's treatment needs consistent with section 3, subdivision 7.

Subd. 2. **FINDINGS.** The court shall find the facts specifically, separately state its conclusions of law, and direct the entry of an appropriate judgment. Where commitment is ordered, the findings of fact and conclusions of law shall specifically state the proposed patient's conduct which is a basis for determining that each of the requisites for commitment is met.

If commitment is ordered, the findings shall also include a listing of less restrictive alternatives considered and rejected by the court and the reasons for rejecting each alternative.

Subd. 3. **FINANCIAL DETERMINATION.** The court shall determine the nature and extent of the property of the patient and of the persons who are liable for the patient's care. If the patient is committed to a regional facility, a copy shall be transmitted to the commissioner.

Subd. 4. **RELEASE BEFORE COMMITMENT.** After the hearing and before a commitment order has been issued, the court may release a proposed patient to the custody of any individual or agency upon conditions which guarantee the care and treatment of the patient. No person against whom a criminal proceeding is pending shall be released.

The court, on its own motion or upon the petition of any person, and after notice and a hearing, may revoke any release and commit the proposed patient pursuant to this chapter.

Subd. 5. **INITIAL COMMITMENT PERIOD.** For persons committed as mentally ill, mentally retarded, or chemically dependent the initial commitment shall not exceed six months. At least 60 days, but not more than 90 days, after the commencement of the initial commitment of a person as mentally ill, mentally retarded, or chemically dependent, the head of the facility shall file a written report with the committing court with a copy to the patient and his counsel. This first report shall set forth the same information as is required in section 12, subdivision 1, but no hearing shall be required at this time. If no written report is filed within the required time, or if it describes the patient as not in need of further institutional care and treatment, the proceedings shall be terminated by the committing court, and the patient shall be discharged from the treatment facility. If the person is discharged prior to the expiration of 60 days, the report required by this subdivision shall be filed at the time of discharge.

Sec. 10. **[253B.10] PROCEDURES FOR COMMITMENT.**

Subdivision 1. **ADMINISTRATIVE REQUIREMENTS.** When a person is committed, the court shall issue a warrant in duplicate, committing the patient to the custody of the head of the treatment facility. Upon the arrival of a patient at the designated treatment facility, the head of the facility shall retain the duplicate of the warrant and endorse his receipt upon the original warrant, which shall be filed in the court of commitment. After arrival, the patient shall be under the control and custody of the head of the treatment facility.

Copies of the petition for commitment, the court's findings of fact and conclusions of law, the court order committing the patient, the report of the examiners, and the pre-petition report shall be provided to the treatment facility at the time of admission.

Subd. 2. **TRANSPORTATION.** When a proposed patient is about to be placed in a treatment facility, the court may order the designated agency, the treatment facility, or any responsible adult to transport the patient to the treatment facility. Unless otherwise ordered by the court, a peace officer who *provides the transportation shall not* be *in uniform* and *shall not use* a *vehicle* visibly marked as a police vehicle. The proposed patient may be accompanied by one or more interested persons.

When a proposed patient requests a change of venue or when a hearing is to be held for adjudication of a patient's status pursuant to section 17, the commissioner shall provide transportation.

Subd. 3. **NOTICE OF ADMISSION.** Whenever a committed person has been admitted to a treatment facility under the provisions of sections 9 or 18, the head of the treatment facility shall immediately notify the patient's spouse or parent and the county of the patient's legal residence if the county may be liable for a portion of the cost of institutionalization. If the committed person was admitted upon the petition of a spouse or parent the head of the treatment facility shall notify an interested person other than the petitioner.

Subd. 4. **PRIVATE INSTITUTIONALIZATION.** Patients or other responsible persons are required to pay the necessary charges for patients committed or transferred to private treatment facilities. Private treatment facilities may refuse to accept a committed person.

Sec. 11. **[253B.11] TEMPORARY CONFINEMENT.**

Subdivision 1. **RESTRICTION.** Except when ordered by the court pursuant to a finding of necessity to protect the life of the proposed patient or others, no person subject to the provisions of this chapter shall be confined in a jail or correctional institution, except pursuant to chapters 242 or 244.

Subd. 2. **FACILITIES.** Each county or a group of counties shall maintain or provide by contract a facility for confinement of persons held temporarily for observation, evaluation, diagnosis, treatment, and care. When the confine-

ment is provided at a regional center, the commissioner shall charge the responsible county for the costs of confinement. The charge shall be based on the commissioner's determination of the average per capita cost, other than that paid from the Minnesota state building fund, for persons hospitalized pursuant to section 5, subdivision 2 and section 7, subdivision 6, at all of the regional centers during the prior fiscal year.

Subd. 3. **TREATMENT.** The designated agency shall take reasonable measures to assure proper care and treatment of a person temporarily confined pursuant to this section.

Sec. 12. **[253B.12] TREATMENT REPORT; REVIEW; HEARING.**

Subdivision 1. **REPORT.** Prior to the termination of the initial commitment order or discharge of the patient, the head of the facility shall file a written report with the committing court with a copy to the patient and his counsel, setting forth in detailed narrative form at least the following: (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 with evidence to support the response; (6) whether any further care and treatment must be provided in a treatment facility with evidence to support the response; (7) whether in his opinion the patient must continue to be committed to a treatment facility; and (8) whether in his opinion the patient satisfies the statutory requirement for continued commitment, with documentation to support the opinion.

Subd. 2. **BASIS FOR DISCHARGE.** If no written report is filed within the required time or if the written statement describes the patient as not in need of further institutional care and treatment, the proceedings shall be terminated by the committing court, and the patient shall be discharged from the treatment facility.

Subd. 3. **EXAMINATION.** Prior to the hearing, the court shall inform the patient that he is entitled to an independent examination by an examiner chosen by the patient and appointed in accordance with provisions of section 7, subdivision 3. The report of the examiner may be submitted at the hearing.

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

In determining whether a person continues to be mentally ill, the court need not find that there has been a recent attempt or threat to physically harm himself or others, or a recent failure to provide necessary food, clothing, shelter,

or medical care for himself. Instead, the court must find that the patient is likely to attempt to physically harm himself or others, or to fail to provide necessary food, clothing, shelter, or medical care for himself unless involuntary commitment is continued.

Subd. 5. **TIME FOR HEARING.** The hearing shall be held within 14 days after receipt by the committing court of the report of the head of the treatment facility. The court may continue the hearing for good cause shown.

The patient, his counsel, the petitioner, and other persons as the court directs shall be given at least five days notice of the time and place of the hearing.

Subd. 6. **WAIVER.** A patient, after consultation with his counsel, may waive any hearing under this section or section 13 in writing. The waiver shall be signed by the patient and his counsel. The waiver must be submitted to the committing court.

Subd. 7. **RECORD REQUIRED.** Where continued commitment is ordered, the findings of fact and conclusions of law shall specifically state the *conduct of the proposed patient which is the basis for the final determination,* that the statutory criteria of commitment continue to be met, and that less restrictive alternatives have been considered and rejected by the court. Reasons for rejecting each alternative shall be stated. A copy of the final order for continued commitment shall be forwarded to the head of the treatment facility.

Subd. 8. **TRANSFER TO INFORMAL STATUS.** At any time prior to the expiration of the initial commitment period a patient who has not been committed as mentally ill and dangerous to the public may be transferred to informal status upon his application in writing with the consent of the head of the facility. Upon transfer the head of the treatment facility shall immediately notify the court in writing and the court shall terminate the proceedings.

Sec. 13. **[253B.13] DURATION OF CONTINUED COMMITMENT.**

Subdivision 1. **MENTALLY ILL PERSONS.** If at the conclusion of a hearing held pursuant to section 12, it is found that the criteria for continued commitment have been satisfied, the court shall determine the probable length of commitment necessary. No period of commitment shall exceed this length of time or 12 months, whichever is less.

At the conclusion of the prescribed period, commitment may not be continued unless a new petition is filed pursuant to section 7 and hearing and determination made on it. Notwithstanding the provisions of section 9, subdivision 5, clause (b), the initial commitment period under the new petition shall be the probable length of commitment necessary or 12 months, whichever is less. The standard of proof at the hearing on the new petition shall be the standard specified in section 12, subdivision 4.

Subd. 2. **MENTALLY RETARDED PERSONS.** If the court finds upon review of the treatment report that the person continues to be mentally retarded, it shall order commitment of the person for an indeterminate period of time, subject to the reviews required by section 3, subdivisions 5 and 7, and subject to the right of the patient to seek judicial review of continued commitment.

Subd. 3. **CHEMICALLY DEPENDENT PERSONS.** If, at the conclusion of a hearing held pursuant to section 12, it is found that a person continues to be chemically dependent, the court shall order the continued commitment of the person for a period of time not to exceed one year.

At the conclusion of the prescribed period, commitment may not be continued unless a new petition is filed pursuant to section 7 and hearing and determination made on it. Notwithstanding the provisions of section 9, subdivision 5, clause (c), the initial commitment period under the new petition shall be the probable length of commitment necessary or 12 months, whichever is less.

Sec. 14. **[253B.14] TRANSFER OF COMMITTED PERSONS.**

The commissioner may transfer any committed person, other than a person committed as mentally ill and dangerous to the public, from one regional center to any other institution under his jurisdiction which is capable of providing proper care and treatment. When a committed person is transferred from one treatment facility to another, written notice shall be given to the committing court and to his parent or spouse or, if none is known, to an interested person, and the designated agency.

Sec. 15. **[253B.15] PROVISIONAL DISCHARGE; PARTIAL INSTITUTIONALIZATION.**

Subdivision 1. **PROVISIONAL DISCHARGE.** The head of the treatment facility may provisionally discharge any patient without discharging the commitment, unless he was found by the committing court to be mentally ill and dangerous to the public.

Each patient released on provisional discharge shall have an aftercare plan developed which specifies 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 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.

Subd. 2. **REVOCATION OF PROVISIONAL DISCHARGE.** The head of the treatment facility may revoke a provisional discharge if:

(i) The patient has violated material conditions of the provisional discharge, and the violation creates the need to return the patient to the facility; or,

(ii) There exists a serious likelihood that the safety of the patient or others will be jeopardized, in that either the patient's need for food, clothing, shelter, or *medical care are not being met, or will not be met in the near future, or the* patient has attempted or threatened to seriously physically harm himself or others.

Any interested person, including the designated agency, may request that the head of the treatment facility revoke the patient's provisional discharge. Any person making a request shall provide the head of the treatment facility with a written report setting forth the specific facts, including witnesses, dates and locations, supporting a revocation, demonstrating that every effort has been made to avoid revocation and that revocation is the least restrictive alternative available.

Subd. 3. **PROCEDURE; NOTICE.** When the possibility of revocation becomes apparent, the designated agency shall notify the patient and all participants in the plan, and every effort shall be made to prevent revocation.

Revocation shall be commenced by a notice of intent to revoke provisional discharge, which shall be served upon the patient, his attorney, and the designated agency. The notice shall set forth the grounds upon which the intention to revoke is based, and shall inform the patient of his rights under this chapter.

Subd. 4. **REVIEW; HEARING.** Any interested person or the patient may request review of the intended revocation by notifying the head of the facility within 14 days of service of the notice upon the patient. Upon receipt of a request, the head of the treatment facility shall immediately file with the committing court a petition for review of the notice of intent to revoke. Any interested person or the patient may also file a petition for review. The court shall hold a hearing on the petition within 14 days of the filing of the petition. If the patient requests an immediate hearing, it shall be held within five days of the request.

At the hearing, the burden of proof shall be upon the party seeking revocation. At the conclusion of the hearing, the court shall find the facts specifically, and may order that the patient's provisional discharge be revoked and the patient returned to the facility. The court shall affirm the revocation if it finds a factual basis for revocation due to a violation of the terms of provisional discharge or a probable danger of harm to the patient or others if the provisional discharge is not revoked. Otherwise the court shall order a return to provisional discharge status.

If neither the patient nor others requests a review hearing within 14 days, the revocation is final and the court, without hearing, may order the patient returned to the facility.

Subd. 5. **RETURN TO FACILITY.** The head of the treatment facility may apply to the committing court for an order directing that the patient be returned to the facility. The court may order the patient returned to the facility prior to a review hearing only upon finding that immediate return to the facility is necessary to avoid serious, imminent harm to the patient or others.

Subd. 6. **EXCEPTION.** During the first 60 days of a provisional discharge, the head of the treatment facility, upon finding that either of the conditions set forth in subdivision 1 exists, may revoke the provisional discharge without being subject to the provisions of subdivisions 2 to 5.

Subd. 7. **EXTENSION OF PROVISIONAL DISCHARGE.** (a) A provisional discharge may be extended only in those circumstances where the patient has not achieved the goals set forth in the provisional discharge plan or continues to need the supervision or assistance provided by an extension of the provisional discharge. In determining whether the provisional discharge is to be extended, the head of the facility shall consider the willingness and ability of the patient to voluntarily obtain needed care and treatment.

(b) The designated agency shall recommend extension of a provisional discharge only after a preliminary conference with the patient and other appropriate persons. The patient shall be given the opportunity to object or make suggestions for alternatives to extension.

(c) Any recommendation for extension shall be made in writing to the head of the facility and to the patient at least 30 days prior to the expiration of the provisional discharge. The written recommendation submitted shall include: the specific grounds for recommending the extension, the date of the preliminary conference and results, the anniversary date of the provisional discharge, the termination date of the provisional discharge, and the proposed length of extension. If the grounds for recommending the extension occur less than 30 days before its expiration, the written recommendation shall occur as soon as practicable.

(d) The head of the facility shall issue a written decision regarding extension within five days after receiving the recommendation from the designated agency.

(e) In no event shall any provisional discharge, revocation, or extension extend the term of the commitment beyond the period provided for in the order issued pursuant to section 9 or 13.

Subd. 8. **EFFECT OF EXTENSION.** No provisional discharge, revocation, or extension shall extend the term of the commitment beyond the period provided for in the commitment order.

Subd. 9. **EXPIRATION OF PROVISIONAL DISCHARGE.** Except as otherwise provided, a provisional discharge is absolute when it expires. If,

while on provisional discharge or extended provisional discharge, a patient is discharged as provided in section 16, the discharge shall be absolute.

Notice of the expiration of the provisional discharge shall be given by the head of the treatment facility to the committing court, the petitioner, the commissioner, and the designated agency.

Subd. 10. **VOLUNTARY RETURN.** With the consent of the head of the treatment facility, a patient may voluntarily return to inpatient status at the treatment facility as follows:

(a) As an informal patient, in which case the patient's commitment is disharged;

(b) As a committed patient, in which case the patient's provisional discharge is voluntarily revoked; or

(c) On temporary return from provisional discharge, in which case both the commitment and the provisional discharge remain in effect.

Prior to readmission, the patient shall be informed of his status upon readmission.

Subd. 11. **PARTIAL INSTITUTIONALIZATION.** The head of a treatment facility may place any committed person on a status of partial institutionalization. The status shall allow the patient to be absent from the facility for certain fixed periods of time. The head of the facility may terminate the status at any time.

Sec. 16. **[253B.16] DISCHARGE OF COMMITTED PERSONS.**

Subdivision 1. **DATE.** The head of a treatment facility shall discharge any patient admitted as mentally ill, mentally retarded or chemically dependent when certified by him to be no longer in need of institutional care and treatment or at the conclusion of any period of time specified in the commitment order, whichever occurs first.

Subd. 2. **NOTIFICATION OF DISCHARGE.** Prior to the discharge or provisional discharge of any committed person, the head of the treatment facility shall notify the designated agency and the patient's spouse, or if there is no spouse, then an adult child, or if there is none, the next of kin of the patient, of the proposed discharge. The notice shall be sent to the last known address of the person to be notified by certified mail with return receipt. The notice shall include the following: (1) the proposed date of discharge or provisional discharge; (2) the date, time and place of the meeting of the staff who have been treating the patient to discuss discharge and discharge planning; (3) the fact that the patient will be present at the meeting; and (4) the fact that the next of kin may attend that staff meeting and present any information relevant to the discharge of the patient. The notice shall be sent at least one week prior to the date set for the meeting.

Sec. 17. [253B.17] RELEASE; JUDICIAL DETERMINATION.

Subdivision 1. PETITION. Any patient, except one committed as mentally ill and dangerous to the public, 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 institutionalization or for an order that an individual is no longer mentally ill, mentally retarded, or chemically dependent, or for any other relief as the court deems just and equitable.

Subd. 2. NOTICE OF HEARING. Upon the filing of the petition, the court shall fix the time and place for the hearing on it. Ten days' notice of the hearing shall be given to the county attorney, the patient, his counsel, the person who filed the initial commitment petition, the head of the treatment facility, and other persons as the court directs. Any person may oppose the petition.

Subd. 3. EXAMINERS. The court shall appoint an examiner and, at the patient's request, shall appoint a second examiner of the patient's choosing to be paid for by the county at a rate of compensation to be fixed by the court.

Subd. 4. EVIDENCE. The patient, his counsel, the petitioner and the county attorney shall be entitled to be present at the hearing and to present and cross-examine witnesses, including examiners. The court may hear any relevant testimony and evidence which is offered at the hearing.

Subd. 5. ORDER. Upon completion of the hearing, the court shall enter an order stating its findings and decision and mail it to the head of the treatment facility.

Sec. 18. [253B.18] PROCEDURES FOR PERSONS MENTALLY ILL AND DANGEROUS TO THE PUBLIC.

Subdivision 1. PROCEDURE. 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 7 and 8. 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 the Minnesota Security Hospital, a regional center designated by the commissioner or to a treatment facility. Admission procedures shall be carried out pursuant to section 10.

Subd. 2. REVIEW. There shall be a review of commitment at the end of 60 days. If the court finds that the patient qualifies for commitment 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 to 15. If no written review statement is filed within 60 days or if the statement describes the committed person as not in need of further institutional care and treatment, a further hearing shall be held by the committing court within 14 days after the court's receipt of the statement. The committing court shall then make the final determination.

Subd. 3. **INDETERMINATE COMMITMENT.** At the hearing held pursuant to subdivision 2, the court may order commitment of the proposed patient for an indeterminate period of time. Subsequent to a final determination that a patient is mentally ill and dangerous to the public, the patient shall be transferred, provisionally discharged, discharged, or have his commitment status altered only as provided in this section.

Subd. 4. **SPECIAL REVIEW BOARD.** The commissioner shall establish 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 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 out of the Minnesota Security Hospital, all petitions relative to discharge, provisional discharge and revocation of provisional discharge, and make recommendations to the commissioner concerning them.

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

Subd. 5. **PETITION; NOTICE OF HEARING; ATTENDANCE; ORDER.** A petition for an order of transfer, discharge, provisional discharge, or revocation of provisional discharge shall be filed with the commissioner and may be filed by the patient or by the head of the treatment facility. The special review board shall hold a hearing on each petition prior to making any recommendation. Within 45 days of the filing of the petition, the committing court, the county attorney of the county of commitment, an interested person, the petitioner and his counsel shall be given written notice by the commissioner of the time and place of the hearing before the special review board. Only those entitled to statutory notice of the hearing or those administratively required to attend may be present at the hearing. The commissioner shall issue his order no later than 14 days after receiving the recommendation of the special review board. A copy of the order shall be sent by certified mail to every person entitled to attend the hearing within five days after it is issued. No order by the commissioner shall be effective sooner than 15 days after it is issued.

Subd. 6. **TRANSFER.** (a) Persons who have been found by the committing court to be mentally ill and dangerous to the public shall not be transferred out of the Minnesota Security Hospital 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 text of chapter 581, section 18, subdivision 4 conforms to the text of the enrolled act.

The following factors are to 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;

(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.

Subd. 7. **PROVISIONAL DISCHARGE.** Patients who have been found by the committing court to be mentally ill and dangerous to the public 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 inpatient treatment and supervision; 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 to the community.

Subd. 8. **PROVISIONAL DISCHARGE PLAN.** A provisional discharge plan shall be developed, implemented and monitored by the designated agency in conjunction with the patient, the treatment facility and other appropriate persons. The designated agency shall, at least quarterly, review the plan with the patient and submit a written report to the commissioner and the treatment facility concerning the patient's status and compliance with each term of the plan.

Subd. 9. **PROVISIONAL DISCHARGE; REVIEW.** A provisional discharge pursuant to this section shall not automatically terminate. A full discharge shall occur only as provided in subdivision 15. The commissioner shall annually review the facts relating to the activity of a patient on provisional discharge and notify the patient that the terms of the provisional discharge shall continue unless the patient requests a change in the conditions of provisional discharge or unless the patient petitions the special review board for a full discharge and the discharge is granted.

Subd. 10. **PROVISIONAL DISCHARGE; REVOCATION.** The head of the treatment facility may revoke a provisional discharge if any of the following grounds exist:

(i) the patient has departed from the conditions of the provisional discharge plan;

(ii) the patient is exhibiting signs of a mental illness which may require in-hospital evaluation or treatment; or

(iii) the patient is exhibiting behavior which may be dangerous to self or others.

Revocation shall be commenced by a notice of intent to revoke provisional discharge, which shall be served upon the patient, his counsel, and the designated agency. The notice shall set forth the grounds upon which the intention to revoke is based, and shall inform the patient of his rights under this chapter.

In all non-emergency situations, prior to revoking a provisional discharge, the head of the treatment facility shall obtain a report from the designated agency outlining the specific reasons for recommending the revocation, including but not limited to the specific facts upon which the revocation recommendation is based.

The patient must be provided a copy of the revocation report and informed orally and in writing of his rights under this section.

Subd. 11. **EXCEPTIONS.** If an emergency exists, the head of the treatment facility may revoke the provisional discharge and, either orally or in writing, order that the patient be immediately returned to the treatment facility. In emergency cases, a report documenting reasons for revocation shall be submitted by the designated agency within seven days after the patient is returned to the treatment facility.

Subd. 12. **RETURN OF PATIENT.** After revocation of a provisional discharge or if the patient is absent without authorization, the head of the treatment facility may request the patient to return to the treatment facility voluntarily. He may request a health officer, a welfare officer, or a peace officer to return the patient to the treatment facility. If a voluntary return is not arranged, the head of the treatment facility shall inform the committing court of the revocation or absence and the court shall direct a health or peace officer in the county where the patient is located to return the patient to the treatment facility or to another treatment facility. The expense of returning the patient to a treatment facility shall be paid by the commissioner unless paid by the patient or his relatives.

Subd. 13. **APPEAL.** Any patient aggrieved by a revocation decision or any interested person may petition the special review board within 48 hours, exclusive of Saturdays, Sundays, and legal holidays, after receipt of the revocation report for a review of the revocation. The matter shall be scheduled within 30 days. The special review board shall review the circumstances leading to the revocation and shall recommend to the commissioner whether or not the revocation shall be upheld. The special review board may also recommend a new provisional discharge at the time of a revocation hearing.

Subd. 14. **VOLUNTARY READMISSION.** With the consent of the head of the treatment facility, a patient may voluntarily return from provisional discharge for a period of up to 30 days and be released from the treatment facility

without a further review by the special review board. All the terms and conditions of the provisional discharge order shall remain unchanged if the patient is released again.

Subd. 15. **DISCHARGE.** A person who has been found by the committing court to be mentally ill and dangerous to the public 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. 19. **[253B.19] JUDICIAL APPEAL PANEL; PATIENTS MENTALLY ILL AND DANGEROUS TO THE PUBLIC.**

Subdivision 1. **CREATION.** The supreme court shall establish an appeal panel composed of three probate judges and two alternate probate judges appointed from among the acting probate judges of the state. Panel members shall serve for terms of one year each. Only three judges need hear any case. One of the regular three appointed judges shall be designated as the chief judge of the appeal panel. The chief judge is vested with power to fix the time and place of all hearings before the panel, issue all notices, subpoena witnesses, appoint counsel for the patient, if necessary, and supervise and direct the operation of the appeal panel. The chief judge shall designate one of the other judges or an alternate judge to act as chief judge in any case where he is unable to act. No member of the appeal panel shall take part in the consideration of any case in which that judge committed the patient in the probate court. The chief justice of the supreme court shall determine the compensation of the judges serving on the appeal panel. The compensation shall be in addition to their regular compensation as probate judges. All compensation and expenses of the appeal panel and all allowable fees and costs of the patient's .counsel shall be paid by the department of public welfare.

Subd. 2. **PETITION; HEARING.** The committed person or the county attorney of the county from which a patient as mentally ill and dangerous to the public was committed 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. 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 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. 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, his counsel, and the county attorney of the committing county may be present and present and cross-examine all witnesses.

Subd. 3. **DECISION.** A majority of the appeal panel shall rule upon the petition. The order of the appeal panel shall supersede the order of the commissioner in the cases. No order of the appeal panel granting a transfer, discharge or provisional discharge shall be made effective sooner than 15 days after it is issued.

Subd. 4. **EFFECT OF PETITION.** The filing of a petition shall immediately suspend the operation of any order for transfer, discharge or provisional discharge of the patient. The patient shall not be discharged in any manner except upon order of a majority of the appeal panel.

Subd. 5. **APPEAL TO SUPREME COURT.** An interested party panel may appeal from the decision of the appeal panel to the supreme court in the same manner as other appeals in civil actions. The filing of an appeal shall immediately suspend the operation of any order granting transfer, discharge or provisional discharge, pending the determination of the appeal.

Sec. 20. **[253B.20] DISCHARGE; ADMINISTRATIVE PROCEDURE.**

Subdivision 1. **NOTICE TO COURT.** When a committed person is discharged, provisionally discharged, transferred to another treatment facility, or partially hospitalized, or when he dies, is absent without authorization, or is returned, the treatment facility having custody of the patient shall notify the committing court.

Subd. 2. **NECESSITIES.** The head of the treatment facility shall make necessary arrangements at the expense of the state to insure that no patient is discharged or provisionally discharged without suitable clothing. The head of the treatment facility shall, if necessary, provide the patient with a sufficient sum of money to secure transportation home, or to another destination of his choice, if the destination is located within a reasonable distance of the treatment facility. The commissioner shall establish procedures by rule to help the patient receive all public assistance benefits provided by state or federal law to which his residence and circumstances entitle him. The rule shall be uniformly applied in all counties. All counties shall provide temporary relief whenever necessary to meet the intent of this subdivision.

Subd. 3. **NOTICE TO DESIGNATED AGENCY.** The head of the treatment facility, upon the provisional discharge or partial institutionalization of

any committed person, shall notify the designated agency before the patient leaves the treatment facility. Whenever possible the notice shall be given at least one week before the patient is to leave the facility.

Subd. 4. **AFTER-CARE SERVICES.** Prior to the date of discharge, provisional discharge or partial institutionalization of any committed person, the designated agency of the county of the patient's residence, in cooperation with the head of the treatment facility, and the patient's physician, if notified pursuant to subdivision 6, shall establish a continuing plan of after-care services for the patient including a plan for medical and psychiatric treatment, nursing care, vocational assistance, and other assistance the patient needs. The designated agency shall provide case management services, supervise and assist the patient in finding employment, suitable shelter, and adequate medical and psychiatric treatment, and aid in his readjustment to the community.

Subd. 5. **CONSULTATION.** In establishing the plan for after-care services the designated agency shall consult with persons or agencies, including any public health nurse and vocational rehabilitation personnel, to insure adequate planning and periodic review for after-care services.

Subd. 6. **NOTICE TO PHYSICIAN.** The head of the treatment facility shall notify the physician of any committed person at the time of the patient's discharge, provisional discharge or partial institutionalization, unless the patient objects to the notice.

Subd. 7. **SERVICES.** A committed person may at any time after discharge, provisional discharge or partial institutionalization, apply to the head of the treatment facility within whose district he resides for treatment. If the head of the treatment facility determines that the applicant requires service, he may provide needed services related to mental illness, mental retardation, or chemical dependency to the applicant. The services shall be provided in regional centers under terms and conditions established by the commissioner.

Sec. 21. **[253B.21] COMMITMENT TO AN AGENCY OF THE UNITED STATES.**

Subdivision 1. **ADMINISTRATIVE PROCEDURES.** If the patient is entitled to care by any agency of the United States in this state, the commitment warrant shall be in triplicate, committing the patient to the joint custody of the head of the treatment facility and the federal agency. If the federal agency is unable or unwilling to receive the patient at the time of commitment, the patient may subsequently be transferred to it upon its request.

Subd. 2. **APPLICABLE REGULATIONS.** Any person, when admitted to an institution of a federal agency within or without this state, shall be subject to the rules and regulations of the federal agency, except that nothing in this section shall deprive any person of rights secured to patients of state treatment facilities by this chapter.

Subd. 3. **POWERS.** The chief officer of any treatment facility operated by a federal agency to which any person is admitted shall have the same powers as the heads of treatment facilities within this state with respect to admission, retention of custody, transfer, parole, or discharge of the committed person.

Subd. 4. **JUDGMENTS.** The judgment or order of commitment by a court of competent jurisdiction of another state committing a person to a federal agency for care or treatment, shall have the same force and effect as to the committed person while in this state as in the jurisdiction in which is situated the court entering the judgment or making the order. Consent is given to the application of the law of the committing state in respect to the authority of the chief officer of any treatment facility of a federal agency, to retain custody of, transfer, parole, or discharge the committed person.

Subd. 5. **TRANSFER.** Upon receipt of a certificate of a federal agency that facilities are available for the care or treatment of any committed person, the head of the treatment facility may transfer the person to a federal agency for care or treatment. Upon the transfer, the committing court shall be notified by the transferring agency. No person shall be transferred to a federal agency if he is confined pursuant to conviction of any felony or gross misdemeanor or if he has been acquitted of the charge solely on the ground of insanity, unless prior to transfer the committing court enters an order for the transfer after appropriate motion and hearing.

Written notice of the transfer shall be given to the patient's spouse or parent, or if none be known, to some other interested person.

Sec. 22. **[253B.22] REVIEW BOARDS.**

Subdivision 1. **ESTABLISHMENT.** The commissioner shall establish a review board of three or more persons for each regional center to review the admission and retention of patients institutionalized under this chapter. One member shall be qualified in the diagnosis of mental illness or mental retardation and one member shall be an attorney. The commissioner may, upon written request from the appropriate federal authority, establish a review panel for any federal treatment facility within the state to review the admission and retention of patients hospitalized under this chapter. For any review board established for a federal treatment facility, one of the persons appointed by the commissioner shall be the commissioner of veterans affairs or his designee.

Subd. 2. **RIGHT TO APPEAR.** Each treatment facility shall be visited by the review board at least once every six months. Upon request each patient in the treatment facility shall have the right to appear before the review board during the visit.

Subd. 3. **NOTICE.** The head of the treatment facility shall notify each patient at the time of admission by a simple written statement of the patient's right to appear before the review board and the next date when the board will

visit the treatment facility. A request to appear before the board need not be in writing. Any employee of the treatment facility receiving a patient's request to appear before the board shall notify the head of the treatment facility of the request.

Subd. 4. **REVIEW.** The board shall review the admission and retention of patients at its respective treatment facility. The board may examine the records of all patients admitted and may examine personally at its own instigation all patients who from the records or otherwise appear to justify reasonable doubt as to continued need of confinement in a treatment facility. The review board shall report its findings to the commissioner and to the head of the treatment facility. The board may also receive reports from patients, interested persons, and treatment facility employees, and investigate conditions affecting the care of patients.

Subd. 5. **COMPENSATION.** Each member of the review board shall receive compensation and reimbursement as established by the commissioner.

Sec. 23. **[253B.23] GENERAL PROVISIONS.**

Subdivision 1. **COSTS OF HEARINGS.** (a) In each proceeding under this chapter the court shall allow and order paid to each witness subpoenaed the fees and mileage prescribed by law; to each examiner a reasonable sum for his services and for travel; to persons conveying the patient to the place of detention, disbursements for the travel, board, and lodging of the patient and of themselves and their authorized assistants; and to the patient's counsel, when appointed by the court, a reasonable sum for travel and for the time spent in court or in preparing for the hearing. Upon the court's order, the county auditor shall issue a warrant on the county treasurer for payment of the amounts allowed.

(b) When the residence of the patient is found to be in another county, the committing court shall transmit to the county auditor a statement of the expenses of the taking into custody, confinement, examination, commitment, conveyance to the place of detention, and rehearing. The auditor shall transmit the statement to the auditor of the county of the patient's residence. The claim shall be paid as other claims against that county. If the auditor to whom this claim is transmitted denies the claim, he shall transmit it, together with his objections to the commissioner. The commissioner shall determine the question of residence and certify his findings to each auditor. If the claim is not paid within 30 days after certification, an action may be maintained on it in the district court of the claimant county.

(c) Whenever venue of a proceeding has been transferred under this chapter, the costs of the proceedings shall be reimbursed to the county of the patient's residence by the state.

Subd. 2. **LEGAL RESULTS OF COMMITMENT STATUS.** (a) Except as otherwise provided in this chapter and in sections 246.15 and 246.16, no

person by reason of commitment or treatment pursuant to this chapter shall be deprived of any legal right, including but not limited to the right to dispose of property, sue and be sued, execute instruments, make purchases, enter into contractual relationships, vote, and hold a driver's license. Commitment or treatment of any patient pursuant to this chapter is not a judicial determination of legal incompetency except to the extent provided in section 3, subdivision 6.

(b) Proceedings for determination of legal incompetency and the appointment of a guardian for a person subject to commitment under this chapter may *be commenced before, during, or after commitment proceedings have been* instituted and may be conducted jointly with the commitment proceedings. The court shall notify the head of the treatment facility to which the patient is committed of a finding that the patient is incompetent.

(c) Where the person to be committed is a minor or owns property of value and it appears to the court that the person is not competent to manage his estate, the court shall appoint a general or special guardian or conservator of the person's estate as provided by law.

Subd. 3. **FALSE REPORTS.** Any person who willfully makes, joins in, or advises the making of any false petition or report, or knowingly or willfully makes any false representation for the purpose of causing the petition or report to be made or for the purpose of causing an individual to be improperly committed under this chapter, is guilty of a gross misdemeanor. The attorney general or his designee shall prosecute violations of this section.

Subd. 4. **IMMUNITY.** All *persons acting in good faith, upon either* actual knowledge or information thought by them to be reliable, who act pursuant to any provision of this chapter or who procedurally or physically assist in the commitment of any individual, pursuant to this chapter, are not subject to any civil or criminal liability under this chapter. Any privilege otherwise existing between patient and physician or between patient and examiner is waived as to any physician or examiner who provides information with respect to a patient pursuant to any provision of this chapter.

Subd. 5. **HABEAS CORPUS.** Nothing in this chapter shall be construed to abridge the right of any person to the writ of habeas corpus.

Subd. 6. **COURT COMMISSIONER.** The court commissioner may act for the probate judge upon a petition for the commitment of a patient when the probate judge is unable to act.

Subd. 7. **APPEAL.** The commissioner or any other aggrieved party may appeal to the district court from any order entered under this chapter in the manner prescribed in section 487.39.

Upon perfection of the appeal, the return shall be filed forthwith. The district court shall hear the appeal within 45 days after service of the notice of

appeal. This appeal shall not suspend the operation of the order appealed from until the appeal is determined, unless otherwise ordered by the district court. Notwithstanding any contrary provision in section 487.39, an appeal may be taken from the determination of a district court judge to the supreme court without leave of the supreme court.

Subd. 8. **TRANSCRIPTS.** For purposes of taking an appeal or petition for habeas corpus or for a judicial determination of mental competency or need for commitment, transcripts of commitment proceedings, or portions of them, shall be made available to the parties upon written application to the court. Upon a showing by a party that he is unable to pay the cost of a transcript, it shall be made available at no expense to the party.

Subd. 9. **SEALING OF RECORDS.** Upon a motion by a person who has been the subject of a judicial commitment proceeding, the probate court for the county in which the person resides may seal all judicial records of the commitment proceedings if it finds that access to the records creates undue hardship for the person. The county attorney shall be notified of the motion and may participate in the hearings. All hearings on the motion shall be in camera. The files and records of the court in proceedings on the motion shall be sealed except to the moving party, county attorney, or other persons by court order.

Sec. 24. **REVISOR'S INSTRUCTIONS.**

In the next edition of Minnesota Statutes, the revisor of statutes shall:

(a) Change all reference to "chapter 253A" to read "chapter 253B";

(b) Change the reference to "sections 253A.01 to 253A.21" found in sections 147.021, subdivision 2; 148.32; 148.75; and 252A.11, subdivision 3, to read "chapter 253B";

(c) Change the reference in section 241.69, subdivision 4, from "253A.07" to "253B.07";

(d) Change the reference in section 241.69, subdivision 8, from "253A.02" to "253B.02";

(e) Change the reference in section 284.28, subdivision 4, from "253A.07, subdivision 17" to "chapter 253B";

(f) Change the reference in section 462A.03, subdivision 16, from "253A.02, subdivision 3" to "253B.02, subdivision 13";

(g) Change the reference in section 462A.03, subdivision 17, from "253A.02, subdivision 5" to "253B.02, subdivision 14"; and

(h) Change all references in chapter 462A from "mentally deficient person" to "mentally retarded person".

Sec. 25. **REPEALER.**

Minnesota Statutes 1980, Sections 253A.01; 253A.02; 253A.03; 253A.04; 253A.05; 253A.06; 253A.07; 253A.075; 253A.08; 253A.09; 253A.10; 253A.11; 253A.12; 253A.14; 253A.15; 253A.16; 253A.17; 253A.18; 253A.19; 253A.20; 253A.21; 253A.22; and 253A.23, are repealed.

Sec. 26. **EFFECTIVE DATE.**

This act is effective August 1, 1982 and applies to any conduct, transaction, or proceeding within its terms which occurs after August 1, 1982. A proceeding for the commitment of a person to a treatment facility commenced before August 1, 1982, is governed by the law existing at the time the proceeding was commenced; provided, however, that if the proceedings are not terminated by August 1, 1983, they shall thereafter be governed by the provisions of sections 1 to 23. Any person committed pursuant to chapter 253A whose term of commitment is indeterminate shall have his status reviewed pursuant to the provisions of section 12 prior to February 1, 1984.

Approved March 22, 1982

CHAPTER 582 — H.F.No. 1018

An act relating to agriculture; consolidating existing laws; providing for agricultural commodity research and promotion councils; establishing procedures; providing penalties; amending Minnesota Statutes 1980, Sections 17.53; 17.54; 17.56; 17.57; 17.58; 17.59, Subdivisions 1, and 2; 17.60; 17.62; 17.63; 17.64; and 17.67; Minnesota Statutes 1981 Supplement, Section 17.59, Subdivision 4; repealing Minnesota Statutes 1980, Sections 17.55; 17.601; 17.65; 17.68; 21A.01 to 21A.19, as amended; 29.14 to 29.16; 29.18; 29.19; 30.461 to 30.468, as amended; 30.472 to 30.479; 32B.01 to 32B.06; 32B.08 to 32B.11; 32B.13; Minnesota Statutes 1981 Supplement, Sections 29.17; 30.469; 30.47; 32B.07; and 32B.12.

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

Section 1. Minnesota Statutes 1980, Section 17.53, is amended to read:

17.53 **DEFINITIONS.**

Subdivision 1. **SCOPE OF APPLICATION.** As used in sections 17.51 to 17.69, the terms defined in this section shall have the following meanings~~:~~.

Subd. 2. **AGRICULTURAL COMMODITY.** "Agricultural commodity" means any agricultural product, including without limitation animals and animal products, grown, raised, produced or fed within the state of Minnesota for use as food, feed, seed or any industrial or chemurgic purpose.