

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1014

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DATE	D-PG	OFFICIAL STATUS
03/04/2013	479	Introduction and first reading Referred to Health, Human Services and Housing
03/13/2013	909a	Comm report: To pass as amended and re-refer to Judiciary
	976	Author added Hann
03/14/2013	1029	Author stricken Hann Author added Lourey
03/18/2013		Comm report: To pass as amended and re-refer to Finance

1.1 A bill for an act
 1.2 relating to human services; modifying provisions related to the Minnesota
 1.3 sex offender program; requiring a public education campaign; modifying the
 1.4 Civil Commitment Act; amending Minnesota Statutes 2012, section 253B.185,
 1.5 subdivision 1, by adding subdivisions.

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

1.7 **ARTICLE 1**

1.8 **STRICT AND INTENSIVE SUPERVISION AND TREATMENT AND**
 1.9 **PUBLIC EDUCATION CAMPAIGN**

1.10 Section 1. **STRICT AND INTENSIVE SUPERVISION AND TREATMENT.**

1.11 The commissioner of human services shall ensure there are an adequate number
 1.12 of facilities that provide strict and intensive supervision and treatment for individuals
 1.13 civily committed under Minnesota Statutes, section 253B.185, who are court-ordered
 1.14 to strict and intensive supervision and treatment placement. The facilities must meet
 1.15 public safety requirements as specified by the commissioners of human services, public
 1.16 safety, and corrections, and ensure the safety of the public while meeting the treatment
 1.17 needs of the civily committed population. The commissioner shall use the information
 1.18 resulting from the January 2013 request for information to determine existing capacity for
 1.19 a range of options for facilities, and treatment that is effective and appropriate and allows
 1.20 progression. If the capacity is insufficient, the commissioner shall develop or contract to
 1.21 provide additional facilities, services, and treatment to meet the need.

1.22 Sec. 2. **EDUCATION RELATING TO SEX OFFENDER CIVIL COMMITMENT**
 1.23 **PROCEDURAL CHANGES.**

2.1 The commissioner of human services shall develop and provide education to judges
 2.2 and court staff, county attorneys and other lawyers, and court-appointed examiners about
 2.3 the civil commitment procedural changes under article 2 and the strict and intensive
 2.4 supervision and treatment under section 1.

2.5 **Sec. 3. PUBLIC EDUCATION CAMPAIGN.**

2.6 The commissioner of human services shall develop a public education campaign
 2.7 informing the general public about the 2012 class action lawsuit relating to the Minnesota
 2.8 sex offender program (MSOP), the court's rulings, including the order from the court
 2.9 establishing the sex offender civil commitment advisory task force and the work of the
 2.10 task force, and the response by the legislature resulting in the legislation in this bill.
 2.11 The public education campaign must be a statewide effort to educate Minnesotans on
 2.12 the process of civilly committing sex offenders and the emerging policy in response to
 2.13 the court's decisions, and related issues.

2.14 **ARTICLE 2**

2.15 **CIVIL COMMITMENT MODIFICATIONS**

2.16 Section 1. Minnesota Statutes 2012, section 253B.185, subdivision 1, is amended to
 2.17 read:

2.18 Subdivision 1. **Commitment generally.** (a) Except as otherwise provided in this
 2.19 section, the provisions of this chapter pertaining to persons who are mentally ill and
 2.20 dangerous to the public apply with like force and effect to persons who are alleged or
 2.21 found to be sexually dangerous persons or persons with a sexual psychopathic personality.
 2.22 For purposes of this section, "sexual psychopathic personality" includes any individual
 2.23 committed as a "psychopathic personality" under Minnesota Statutes 1992, section 526.10.

2.24 (b) Before commitment proceedings are instituted, the facts shall first be submitted
 2.25 to the county attorney, who, if satisfied that good cause exists, will prepare the petition.
 2.26 The county attorney may request a prepetition screening report. The petition is to be
 2.27 executed by a person having knowledge of the facts and filed with the district court of the
 2.28 county of financial responsibility or the county where the patient is present. If the patient
 2.29 is in the custody of the commissioner of corrections, the petition may be filed in the county
 2.30 where the conviction for which the person is incarcerated was entered.

2.31 (c) Upon the filing of a petition alleging that a proposed patient is a sexually
 2.32 dangerous person or is a person with a sexual psychopathic personality, the court shall
 2.33 conduct a bifurcated hearing. The first phase of the bifurcated hearing shall be to hear
 2.34 the petition as provided in section 253B.18, except that section 253B.18, subdivisions 2

3.1 ~~and 3~~ 2, 3, and 4c, shall not apply. During the first phase, the court must determine if the
 3.2 proposed patient is a sexually dangerous person or is a person with a sexual psychopathic
 3.3 personality. If the court determines the proposed patient is a sexually dangerous person or
 3.4 is a person with a sexual psychopathic personality, the court must schedule the second
 3.5 phase of the bifurcated hearing. During the second phase, the court must determine the
 3.6 appropriate level of placement for the patient pursuant to paragraph (d).

3.7 (d) In commitments under this section, the court shall commit the patient to a ~~secure~~
 3.8 ~~treatment facility unless the patient establishes by clear and convincing evidence that a~~
 3.9 ~~less restrictive treatment program is available~~ an appropriate placement that is consistent
 3.10 with the patient's treatment needs and the requirements of public safety.

3.11 (e) After a final determination that a patient is a sexually dangerous person or sexual
 3.12 psychopathic personality, the court shall order commitment for an indeterminate period of
 3.13 time and the patient shall be transferred, provisionally discharged, or discharged, only as
 3.14 provided in this section.

3.15 Sec. 2. Minnesota Statutes 2012, section 253B.185, is amended by adding a
 3.16 subdivision to read:

3.17 Subd. 1c. **Strict and intensive supervision and treatment.** (a) The court may
 3.18 commit a person to strict and intensive supervision and treatment if the court finds that,
 3.19 based on the nature and circumstances of the behavior and the mental or emotional
 3.20 condition that forms the basis for the commitment, strict and intensive supervision and
 3.21 treatment is an appropriate placement.

3.22 (b) If the court finds that strict and intensive supervision and treatment is appropriate,
 3.23 the court shall notify the Minnesota sex offender program, which must prepare a plan
 3.24 that identifies the treatment and services for the patient including recommendations
 3.25 regarding the conditions of strict and intensive supervision and treatment. The plan must
 3.26 be presented to the court for its approval within 60 days after the court finds that strict
 3.27 and intensive supervision and treatment is appropriate, unless the program and the patient
 3.28 request additional time to develop the plan.

3.29 (c) An order for strict and intensive supervision and treatment places the patient
 3.30 in the custody and control of the commissioner of human services for the provision of
 3.31 treatment, services, and supervision under the Minnesota sex offender program and the
 3.32 patient is subject to the conditions set by the court and the program, which must ensure the
 3.33 safety of the public while meeting the treatment needs of the civilly committed patient.

3.34 (d) If the program determines that a patient under this subdivision has violated a
 3.35 condition set by the court and the program under paragraph (c) or is exhibiting behavior

4.1 that may be dangerous to self or others or that the interests of public safety requires that
4.2 strict and intensive supervision and treatment placement be revoked, the program may
4.3 request the court to issue an emergency ex parte order directing a law enforcement agency
4.4 to take the person into custody and transport the person to a Department of Corrections or
4.5 county correctional or detention facility or a secure treatment facility. The county attorney
4.6 or the program shall submit a statement showing probable cause for the detention and
4.7 submit a petition to revoke the strict and intensive supervision and treatment order within
4.8 48 hours after the detention. The court shall hear the petition within 30 days, unless the
4.9 hearing or deadline is waived by the patient. If the court determines that a condition of the
4.10 strict and intensive supervision and treatment placement has been violated or that the safety
4.11 of the patient or others requires that the strict and intensive supervision and treatment
4.12 placement be revoked, the court shall revoke the strict and intensive supervision and
4.13 treatment placement and order an appropriate commitment placement under this section.

4.14 (e) This subdivision does not affect or replace any applicable registration
4.15 requirements under section 243.166 or notice requirements under sections 244.052 and
4.16 244.053.

4.17 Sec. 3. Minnesota Statutes 2012, section 253B.185, is amended by adding a
4.18 subdivision to read:

4.19 Subd. 9a. **Annual review of placement level.** (a) The commissioner shall appoint
4.20 an examiner to conduct a reexamination of the mental condition of a person committed
4.21 under this section within 12 months after the date of the initial commitment order and
4.22 again thereafter at least once each 12 months to determine whether the person has made
4.23 sufficient progress for the judicial appeal panel to consider whether the person's placement
4.24 should be modified. At the time of a reexamination under this section, the person who has
4.25 been committed may retain or have the commissioner appoint an examiner.

4.26 (b) Any examiner conducting a reexamination under paragraph (a) shall prepare
4.27 a written report of the reexamination no later than 30 days after the date of the
4.28 reexamination. The report must examine and assess the patient's:

4.29 (1) progress toward treatment goals;

4.30 (2) risk to the public; and

4.31 (3) suitability for an alternative placement that balances the patient's continued
4.32 treatment needs and public safety. The examiner shall provide a copy of the report to the
4.33 county attorney, the commissioner, and the judicial appeal panel.

5.1 (c) Notwithstanding paragraph (a), the court that committed a person under this
5.2 section may order a reexamination of the person at any time during the period in which the
5.3 person is subject to the commitment order.

5.4 (d) At any reexamination under paragraph (a), the treating professional shall prepare
5.5 a treatment progress report. The treating professional shall provide a copy of the treatment
5.6 progress report to the commissioner. The treatment progress report shall consider all of
5.7 the following:

5.8 (1) the specific factors associated with the person's risk for committing another
5.9 sexually violent offense;

5.10 (2) whether the person has made significant progress in treatment or has refused
5.11 treatment;

5.12 (3) the ongoing treatment needs of the person;

5.13 (4) any specialized needs or conditions associated with the person that must be
5.14 considered in future treatment planning.

5.15 (e) Any examiners under paragraph (a) and treating professionals under paragraph
5.16 (d) shall have reasonable access to the person for purposes of reexamination, to the
5.17 person's past and present treatment records and to the person's patient health care records.

5.18 (f) The commissioner shall submit an annual report comprised of the reexamination
5.19 report under paragraph (a) and the treatment progress report under paragraph (d) to the
5.20 judicial appeal panel. A copy of the annual report shall be placed in the person's treatment
5.21 records. The commissioner shall provide a copy of the annual report to the patient and the
5.22 county. The panel shall provide a copy of the annual report to the patient's attorney as
5.23 soon as he or she is retained or appointed.

5.24 (g) If a person committed under this section is incarcerated for a new criminal charge
5.25 or conviction, any reporting requirement under paragraphs (a), (d), or (f) does not apply
5.26 during the incarceration period. A court may order a reexamination of the person under
5.27 paragraph (c) if the court finds reexamination to be necessary. The schedule for reporting
5.28 established under paragraph (a) shall resume when the person is in the custody and control
5.29 of the commissioner of human services, under the Minnesota sex offender program.

APPENDIX
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