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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2803

03/10/2016 Authored by Zerwas, Schoen and Cornish

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

03/24/2016 Adoption of Report: Re-referred to the Committee on Civil Law and Data Practices

1.1 A bill for an act
1.2 relating to civil commitment; specifying notice requirements for early
1.3 termination of an emergency admission; amending Minnesota Statutes 2014,
1.4 section 253B.05, subdivisions 2, 3.

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

1.6 Section 1. Minnesota Statutes 2014, section 253B.05, subdivision 2, is amended to read:

1.7 Subd. 2. **Peace or health officer authority.** (a) A peace or health officer may take a
1.8 person into custody and transport the person to a licensed physician or treatment facility if
1.9 the officer has reason to believe, either through direct observation of the person's behavior,
1.10 or upon reliable information of the person's recent behavior and knowledge of the person's
1.11 past behavior or psychiatric treatment, that the person is mentally ill or developmentally
1.12 disabled and in danger of injuring self or others if not immediately detained. A peace or
1.13 health officer or a person working under such officer's supervision, may take a person
1.14 who is believed to be chemically dependent or is intoxicated in public into custody and
1.15 transport the person to a treatment facility. If the person is intoxicated in public or is
1.16 believed to be chemically dependent and is not in danger of causing self-harm or harm to
1.17 any person or property, the peace or health officer may transport the person home. The
1.18 peace or health officer shall make written application for admission of the person to the
1.19 treatment facility. The application shall contain the peace or health officer's statement
1.20 specifying the reasons for and circumstances under which the person was taken into
1.21 custody. If danger to specific individuals is a basis for the emergency hold, the statement
1.22 must include identifying information on those individuals, to the extent practicable. A
1.23 copy of the statement shall be made available to the person taken into custody. The peace
1.24 or health officer who makes the application shall provide the officer's name, the agency

2.1 that employs the officer, and the telephone number or other contact information for
 2.2 purposes of receiving notice under subdivision 3, paragraph (d).

2.3 (b) As far as is practicable, a peace officer who provides transportation for a person
 2.4 placed in a facility under this subdivision may not be in uniform and may not use a vehicle
 2.5 visibly marked as a law enforcement vehicle.

2.6 (c) A person may be admitted to a treatment facility for emergency care and
 2.7 treatment under this subdivision with the consent of the head of the facility under the
 2.8 following circumstances: (1) a written statement shall only be made by the following
 2.9 individuals who are knowledgeable, trained, and practicing in the diagnosis and treatment
 2.10 of mental illness or developmental disability; the medical officer, or the officer's designee
 2.11 on duty at the facility, including a licensed physician, a licensed physician assistant, or
 2.12 an advanced practice registered nurse who after preliminary examination has determined
 2.13 that the person has symptoms of mental illness or developmental disability and appears
 2.14 to be in danger of harming self or others if not immediately detained; or (2) a written
 2.15 statement is made by the institution program director or the director's designee on duty
 2.16 at the facility after preliminary examination that the person has symptoms of chemical
 2.17 dependency and appears to be in danger of harming self or others if not immediately
 2.18 detained or is intoxicated in public.

2.19 Sec. 2. Minnesota Statutes 2014, section 253B.05, subdivision 3, is amended to read:

2.20 Subd. 3. **Duration of hold.** (a) Any person held pursuant to this section may be
 2.21 held up to 72 hours, exclusive of Saturdays, Sundays, and legal holidays after admission.
 2.22 If a petition for the commitment of the person is filed in the district court in the county of
 2.23 financial responsibility or of the county in which the treatment facility is located, the court
 2.24 may issue a judicial hold order pursuant to section 253B.07, subdivision 2b.

2.25 (b) During the 72-hour hold period, a court may not release a person held under this
 2.26 section unless the court has received a written petition for release and held a summary
 2.27 hearing regarding the release. The petition must include the name of the person being
 2.28 held, the basis for and location of the hold, and a statement as to why the hold is improper.
 2.29 The petition also must include copies of any written documentation under subdivision 1
 2.30 or 2 in support of the hold, unless the person holding the petitioner refuses to supply the
 2.31 documentation. The hearing must be held as soon as practicable and may be conducted by
 2.32 means of a telephone conference call or similar method by which the participants are able
 2.33 to simultaneously hear each other. If the court decides to release the person, the court shall
 2.34 direct the release and shall issue written findings supporting the decision. The release may

3.1 not be delayed pending the written order. Before deciding to release the person, the court
3.2 shall make every reasonable effort to provide notice of the proposed release to:

3.3 (1) any specific individuals identified in a statement under subdivision 1 or 2 or
3.4 individuals identified in the record who might be endangered if the person was not held;

3.5 (2) the examiner whose written statement was a basis for a hold under subdivision
3.6 1; and

3.7 (3) the peace or health officer who applied for a hold under subdivision 2.

3.8 (c) If a person is intoxicated in public and held under this section for detoxification,
3.9 a treatment facility may release the person without providing notice under paragraph (d)
3.10 as soon as the treatment facility determines the person is no longer a danger to themselves
3.11 or others. Notice must be provided to the peace officer or health officer who transported
3.12 the person, or the appropriate law enforcement agency, if the officer or agency requests
3.13 notification.

3.14 (d) If a treatment facility releases or discharges a person during the 72-hour hold
3.15 period or if the person leaves the facility without the consent of the head of the treatment
3.16 facility, the head of the treatment facility shall immediately notify the agency which
3.17 employs the peace or health officer who transported the person to the treatment facility
3.18 under this section.

3.19 (e) A person held under a 72-hour emergency hold must be released by the facility
3.20 within 72 hours unless a court order to hold the person is obtained. A consecutive
3.21 emergency hold order under this section may not be issued.