CHAPTER 253B

CIVIL COMMITMENT ACT

253B.01 CITATION.

This chapter may be cited as the "Minnesota commitment act of 1982."

History: *1982 c 581 s 1*

253B.02 DEFINITIONS.

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

Subd. 1a. **Case manager.** "Case manager" has the definition given in section 245.462, subdivision 4, for persons with mental illness.

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

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of human services or the commissioner's designee.

Subd. 4. **Committing court.** "Committing court" means court or, in a case where commitment proceedings are commenced in response to an acquittal of a crime or offense under section 611.026, "committing court" means the court in which the acquittal took place.

Subd. 4a. **Crime against the person.** "Crime against the person" means a violation of or attempt to violate any of the following provisions: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.221; 609.222; 609.223; 609.224; 609.2242; 609.23; 609.231; 609.2325; 609.233; 609.2335; 609.235; 609.24; 609.245; 609.25; 609.255; 609.265; 609.27, subdivision 1, clause (1) or (2); 609.28 if violence or threats of violence were used; 609.322, subdivision 1, clause (2); 609.342; 609.343; 609.344; 609.345; 609.365; 609.498, subdivision 1; 609.50, clause (1); 609.561; 609.562; 609.595; and 609.72, subdivision 3.

Subd. 4b. **Community–based treatment.** "Community–based treatment" means community support services programs defined in section 245.462, subdivision 6; day treatment

services defined in section 245.462, subdivision 8; outpatient services defined in section 245.462, subdivision 21; and residential treatment services as defined in section 245.462, subdivision 23.

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

Subd. 6. **Emergency treatment.** "Emergency treatment" means the treatment of a patient pursuant to section 253B.05 which is necessary to protect the patient or others from immediate harm.

Subd. 7. **Examiner.** "Examiner" means a person who is knowledgeable, trained, and practicing in the diagnosis and treatment of the alleged impairment and who is:

(1) a licensed physician; or

(2) a licensed psychologist who has a doctoral degree in psychology or who became licensed as a licensed consulting psychologist before July 2, 1975.

Subd. 7a. **Harmful sexual conduct.** (a) "Harmful sexual conduct" means sexual conduct that creates a substantial likelihood of serious physical or emotional harm to another.

(b) There is a rebuttable presumption that conduct described in the following provisions creates a substantial likelihood that a victim will suffer serious physical or emotional harm: section 609.342 (CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE), 609.343 (CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE), 609.344 (CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE), or 609.345 (CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE). If the conduct was motivated by the person's sexual impulses or was part of a pattern of behavior that had criminal sexual conduct as a goal, the presumption also applies to conduct described in section 609.185 (MURDER IN THE FIRST DEGREE), 609.19 (MURDER IN THE SECOND DEGREE), 609.195 (MURDER IN THE THIRD DEGREE), 609.20 (MANSLAUGHTER IN THE FIRST DEGREE), 609.205 (MANSLAUGHTER IN THE SECOND DEGREE), 609.221 (ASSAULT IN THE FIRST DEGREE), 609.222 (ASSAULT IN THE SECOND DEGREE), 609.223 (ASSAULT IN THE THIRD DEGREE), 609.24 (SIMPLE ROBBERY), 609.245 (AGGRAVATED ROBBERY), 609.25 (KIDNAPPING), 609.255 (FALSE IMPRISONMENT), 609.365 (INCEST), 609.498 (TAMPERING WITH A WITNESS), 609.561 (ARSON IN THE FIRST DEGREE), 609.582, subdivision 1 (BURGLARY IN THE FIRST DEGREE), 609.713 (TERRORISTIC THREATS), or 609.749, subdivision 3 or 5 (HARASSMENT AND STALKING).

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 the person's designee.

Subd. 9. **Health officer.** "Health officer" means a licensed physician, licensed psychologist, psychiatric social worker, or psychiatric or public health nurse as defined in section 145A.02, subdivision 18, and formally designated members of a prepetition screening unit established by section 253B.07.

Subd. 10. **Interested person.** "Interested person" means an adult, including but not limited to, a public official, including a local welfare agency acting under section 626.5561, and the legal guardian, spouse, parent, legal counsel, adult child, next of kin, or other person designated by a proposed patient.

Subd. 11. **Licensed psychologist.** "Licensed psychologist" means a person licensed by the board of psychology and possessing the qualifications for licensure provided in section 148.907.

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 official duties.

Subd. 13. **Mentally ill person.** "Mentally ill person" means any person who has an organic disorder of the brain or a substantial psychiatric disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand, which

(a) is manifested by instances of grossly disturbed behavior or faulty perceptions; and

(b) poses a substantial likelihood of physical harm to self or others as demonstrated by:

(i) a failure to obtain necessary food, clothing, shelter, or medical care as a result of the impairment, or

(ii) a recent attempt or threat to physically harm self or others. 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 who manifests these conditions prior to the person's 22nd birthday; and (b) whose recent conduct is a result of mental retardation and poses a substantial likelihood of physical harm to self or others in that there has been (i) a recent attempt or threat to physically harm self or others, or (ii) a failure and inability to obtain necessary food, clothing, shelter, safety, or medical care.

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 patrol officer when engaged in the authorized duties of 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 committed as a sexual psychopathic personality or sexually dangerous person as defined in subdivisions 18a and 18b is subject to the provisions of this chapter that apply to persons 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.

Subd. 18a. **Sexual psychopathic personality.** "Sexual psychopathic personality" means the existence in any person of such conditions of emotional instability, or impulsiveness of behavior, or lack of customary standards of good judgment, or failure to appreciate the consequences of personal acts, or a combination of any of these conditions, which render the person irresponsible for personal conduct with respect to sexual matters, if the person has evidenced, by a habitual course of misconduct in sexual matters, an utter lack of power to control the person's sexual impulses and, as a result, is dangerous to other persons.

Subd. 18b. **Sexually dangerous person.** (a) A "sexually dangerous person" means a person who:

(1) has engaged in a course of harmful sexual conduct as defined in subdivision 7a;

(2) has manifested a sexual, personality, or other mental disorder or dysfunction; and

(3) as a result, is likely to engage in acts of harmful sexual conduct as defined in subdivision 7a.

(b) For purposes of this provision, it is not necessary to prove that the person has an inability to control the person's sexual impulses.

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

Subd. 20. **Verdict.** "Verdict" means a jury verdict or a general finding by the trial court sitting without a jury pursuant to the rules of criminal procedure.

Subd. 21. **Pass.** "Pass" means any authorized temporary, unsupervised absence from a treatment facility.

Subd. 22. **Pass plan.** "Pass plan" means the part of a treatment plan for a person who has been committed as mentally ill and dangerous that specifies the terms and conditions under which the patient may be released on a pass.

Subd. 23. **Pass–eligible status.** "Pass–eligible status" means the status under which a person committed as mentally ill and dangerous may be released on passes after approval of a pass plan by the head of a treatment facility.

History: *1981 c 37 s 2; 1982 c 581 s 2; 1983 c 251 s 1–4; 1983 c 348 s 1–3; 1984 c 623 s 1–3; 1984 c 654 art 5 s 58; 1986 c 351 s 1; 1986 c 444; 1Sp1986 c 3 art 1 s 66; 1987 c 309 s 24; 1988 c 623 s 1–4; 1989 c 290 art 5 s 2,3; 1990 c 378 s 1; 1991 c 255 s 17,19; 1Sp1994 c 1 art 1 s 1–3; art 2 s 29; 1995 c 229 art 4 s 12; 1995 c 259 art 3 s 2; 1996 c 424 s 23; 1995 c 189 s 8; 1996 c 277 s 1*

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. Restraints shall not be applied to patients with mental retardation except as permitted under section 245.825 and rules of the commissioner of human services. Consent must be obtained from the person or person's guardian except for emergency procedures as permitted under rules of the commissioner adopted under section 245.825. 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 on determining that the medical welfare of the patient requires it. For patients in regional facilities, that 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 on determining 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. Upon admission to a facility where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors, the patient or resident, or the legal guardian or conservator of the patient or resident, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility to callers and visitors who may seek to communicate with the patient or resident. To the extent possible, the legal guardian or conservator of a patient or resident shall consider the opinions of the patient or resident regarding the disclosure of the patient's or resident's presence in the facility.

Subd. 4. **Special visitation; religion.** A patient has the right to meet with or call a personal physician, spiritual advisor, and counsel at all reasonable times. Upon admission to a facility where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors, the patient or resident, or the legal guardian or conservator of the patient or resident, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility to callers and visitors who may seek to communicate with the patient or resident. To the extent possible, the legal guardian or conservator of a patient or resident shall consider the opinions of the patient or resident regarding the disclosure of the patient's or resident's presence in the facility. The patient has the right to continue the practice of 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. If a person is committed as mentally retarded for an indeterminate period of time, the three–year judicial review must include the annual reviews for each year as outlined in Minnesota Rules, part 9525.0075, subpart 6.

Subd. 6. **Consent for medical procedure.** A patient has the right to prior consent to any medical or surgical treatment, other than treatment for chemical dependency or nonintrusive treatment for mental illness.

The following procedures shall be used to obtain consent for any treatment necessary to preserve the life or health of any committed patient:

(a) The written, informed consent of a competent adult patient for the treatment is sufficient.

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

(c) 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, written, informed consent for the surgery or medical treatment 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 a court of competent jurisdiction 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.

(d) Consent to treatment of any minor patient shall be secured in accordance with sections 144.341 to 144.346, except that a minor 16 years of age or older may give valid consent for hospitalization, routine diagnostic evaluation, and emergency or short-term acute care.

(e) In the case of an emergency 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 written, informed 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. 6a. MS 1990 [Renumbered subd 6c]

Subd. 6a. **Consent for treatment for mental retardation.** A patient with mental retardation, or the patient's guardian or conservator, has the right to give or withhold consent before:

(1) the implementation of any aversive or deprivation procedure except for emergency procedures permitted in rules of the commissioner adopted under section 245.825; or

(2) the administration of psychotropic medication.

Subd. 6b. **Consent for mental health treatment.** A competent person admitted without commitment to a treatment facility may be subjected to intrusive mental health treatment only with the person's written informed consent. For purposes of this section, "intrusive mental health treatment" means electroshock therapy and neuroleptic medication and does not include treatment for mental retardation. An incompetent person who has prepared a directive under subdivision 6d regarding treatment with intrusive therapies must be treated in accordance with this section, except in cases of emergencies.

Subd. 6c. **Records; administration of neuroleptic medications.** (a) A treating physician who makes medical decisions under this subdivision regarding the prescription and administration of neuroleptic medication may have access to the physician's order section of a patient's records on past administration of neuroleptic medication at any treatment facility, if the patient lacks the capacity to authorize the release of records. Upon request of a treating physician under this subdivision, a treatment facility shall supply complete information relating to the past records on administration of neuroleptic medication of a patient subject to this subdivision. A patient who has the capacity to authorize the release of data retains the right to make decisions regarding access to medical records as provided by section 144.335.

(b) Neuroleptic medications may be administered to persons committed as mentally ill or mentally ill and dangerous only as described in this subdivision. For purposes of this section, "patient" also includes a proposed patient who is the subject of a petition for commitment.

(c) A treatment provider may prescribe and administer neuroleptic medication without judicial review to a patient who:

(1) is competent to consent to the treatment and has signed a written, informed consent;

(2) is not competent to consent to neuroleptic medications if the patient, when competent, prepared a declaration under subdivision 6d requesting the treatment or authorizing a proxy to request the treatment and the proxy has requested the neuroleptic medication;

(3) has not prepared a declaration under subdivision 6d and who is not competent to consent to neuroleptic medications if:

(i) the patient does not object to or refuse the medication;

(ii) a guardian ad litem appointed by the court with authority to consent to neuroleptic medications gives written, informed consent to the administration of the neuroleptic medication; and

(iii) a multidisciplinary treatment review panel composed of persons who are not engaged in providing direct care to the patient gives written approval to administration of the neuroleptic medication; or

(4) refuses prescribed neuroleptic medication and is in an emergency situation. Medication may be administered for so long as the emergency continues to exist, up to 14 days, if the treating physician determines that the medication is necessary to prevent serious, immediate physical harm to the patient or to others. If a petition for authorization to administer medication is filed within the 14 days, the treating physician may continue the medication through the date of the first court hearing, if the emergency continues to exist. If the petition for authorization to administer medication is filed in conjunction with a petition for commitment and the court makes a determination at the preliminary hearing under section 253B.07, subdivision 7, that there is sufficient cause to continue the physician's order until the hearing under section 253B.08, the treating physician may continue the medication until that hearing, if the emergency continues to exist. The treatment facility shall document the emergency in the patient's medical record in specific behavioral terms.

(d) The court may allow and order paid to a guardian ad litem a reasonable fee for services provided under paragraph (c), or the court may appoint a volunteer guardian ad litem.

(e) A treatment facility must obtain judicial review to administer neuroleptic medication to a patient who refuses to take the medication, or when an independent medical review does not support the prescribed treatment.

(f) A physician on behalf of a treatment facility may file a petition requesting authorization to administer neuroleptic medication to a patient who is not competent to consent to the prescribed medication, as certified by a physician, and who refuses to take the prescribed medication. A patient may also file a petition pursuant to section 253B.17 for a review of a physician's order for neuroleptic medication.

(g) A petition may be filed with the district court in the county of commitment or, with the consent of the committing court, the county in which the patient is being held or treated. The petition may be heard as part of any other district court proceeding under this chapter. The hearing must be held within 14 days from the date of the filing of the petition. By agreement of the parties, or for good cause shown, the court may extend the time of hearing an additional 30 days.

(h) If the petitioning facility has a treatment review panel, the panel shall review the appropriateness of the proposed medication and submit its recommendations to the court, to the county attorney, and to the patient's counsel at least two days prior to the hearing.

(i) The patient must be examined by a court examiner prior to the hearing. If the patient refuses to participate in an examination, the examiner may rely on the patient's medical records to reach an opinion as to the appropriateness of neuroleptic medication. The patient is entitled to counsel and a second examiner, if requested by the patient or patient's counsel.

(j) At any time during the commitment proceedings, the court may appoint a guardian ad litem upon the request of any party, the recommendation of the prepetition screener, an examining physician, the court's examiner, or upon the court's own motion.

(k) The court may base its decision on relevant and admissible evidence, including the testimony of a treating physician or other qualified physician, a member of the patient's treatment team, a court appointed examiner, witness testimony, or the patient's medical records.

(l) If the patient is found to be competent to decide whether to take neuroleptic medication, the treating facility may not administer medication without the patient's informed written consent or without the declaration of an emergency, or until further review by the court.

(m) If the patient is found incompetent to decide whether to take neuroleptic medication, the court may authorize the treating facility, and any other community or treatment facility to which the patient may be transferred or provisionally discharged, to involuntarily administer the medication to the patient. A finding of incompetence under this section must not be construed to determine the patient's competence for any other purpose.

(n) The court may, but is not required to, limit the maximum dosage of neuroleptic medication which may be administered.

(o) The court may authorize the administration of neuroleptic medication until the termination of a determinate commitment. If the patient is committed for an indeterminate period, the court may authorize treatment of neuroleptic medication for not more than two years, subject to the patient's right to petition the court for review of the order. The treatment facility must submit annual reports to the court, which shall provide copies to the patient and the respective attorneys.

(p) If the patient is transferred from a facility which does not have a treatment review panel to a facility which has a treatment review panel, the receiving facility shall review the appropriateness of the patient's medication within 30 days after the patient begins treatment at the facility.

Subd. 6d. **Adult mental health treatment.** (a) A competent adult may make a declaration of preferences or instructions regarding intrusive mental health treatment. These preferences or instructions may include, but are not limited to, consent to or refusal of these treatments.

(b) A declaration may designate a proxy to make decisions about intrusive mental health treatment. A proxy designated to make decisions about intrusive mental health treatments and who agrees to serve as proxy may make decisions on behalf of a declarant consistent with any desires the declarant expresses in the declaration.

(c) A declaration is effective only if it is signed by the declarant and two witnesses. The witnesses must include a statement that they believe the declarant understands the nature and significance of the declaration. A declaration becomes operative when it is delivered to the declarant's physician or other mental health treatment provider. The physician or provider must comply with it to the fullest extent possible, consistent with reasonable medical practice, the availability of treatments requested, and applicable law. The physician or provider shall continue to obtain the declarant's informed consent to all intrusive mental health treatment decisions if the declarant is capable of informed consent. A treatment provider may not require a person to make a declaration under this subdivision as a condition of receiving services.

(d) The physician or other provider shall make the declaration a part of the declarant's medical record. If the physician or other provider is unwilling at any time to comply with the declaration, the physician or provider must promptly notify the declarant and document the notification in the declarant's medical record. If the declarant has been committed as a patient under this chapter, the physician or provider may subject a declarant to intrusive treatment in a manner contrary to the declarant's expressed wishes, only upon order of the committing court. If the declarant is not a committed patient under this chapter, the physician or provider may subject the declarant to intrusive treatment in a manner contrary to the declarant's expressed wishes, only if the declarant is committed as mentally ill or mentally ill and dangerous to the public and a court order authorizing the treatment has been issued.

(e) A declaration under this subdivision may be revoked in whole or in part at any time and in any manner by the declarant if the declarant is competent at the time of revocation. A revocation is effective when a competent declarant communicates the revocation to the attending physician or other provider. The attending physician or other provider shall note the revocation as part of the declarant's medical record.

(f) A provider who administers intrusive mental health treatment according to and in good faith reliance upon the validity of a declaration under this subdivision is held harmless from any liability resulting from a subsequent finding of invalidity.

(g) In addition to making a declaration under this subdivision, a competent adult may delegate parental powers under section 524.5–505 or may nominate a guardian or conservator under section 525.544.

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 nonparticipation 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 personal 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 medical records relevant to the person's 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 253B.07. 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 the 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.

History: *1982 c 581 s 3; 1983 c 251 s 5,6; 1986 c 444; 1987 c 185 art 2 s 2,3; 1988 c 623 s 5; 1988 c 689 art 2 s 118,119; 1989 c 282 art 2 s 100; 1990 c 568 art 5 s 31; 1991 c 148 s 2; 1993 c 54 s 4,5; 1995 c 136 s 5,6; 1995 c 189 s 2,3*

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. Any person under the age of 16 years may be admitted as an informal patient with the consent of a parent or legal guardian if it is determined by independent examination that there is reasonable evidence that (a) the proposed patient is mentally ill, mentally retarded, or chemically dependent; and (b) the proposed patient is suitable for treatment. The head of the treatment facility shall not arbitrarily refuse any person seeking admission as an informal patient.

Subd. 2. **Release.** Every patient admitted for mental illness or mental retardation under this section shall be informed in writing at the time of admission that the patient has a right to leave the facility within 12 hours of making a 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 admission that the patient has a right to leave the facility within 72 hours, exclusive of Saturdays, Sundays and holidays, of making a request, unless held under another provision of this chapter. The request shall be submitted in writing to the head of the treatment facility. On deeming it to be in the best interest of the person, the person's family, or the public, the head of the treatment facility shall petition for the commitment of the person pursuant to section 253B.07.

History: *1982 c 581 s 4; 1983 c 251 s 7; 1986 c 444*

253B.05 EMERGENCY ADMISSION.

Subdivision 1. **Emergency hold.** (a) 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) the examiner has examined the person not more than 15 days prior to admission, (2) the examiner 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 self or others if not immediately restrained, and (3) an order of the court cannot be obtained in time to prevent the anticipated injury.

(b) 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. If imminent danger to specific individuals is a basis for the emergency hold, the statement must include identifying information on those individuals, to the extent practicable. 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 the person to a licensed physician or treatment facility if the officer has reason to believe, either through direct observation of the person's behavior, or upon reliable information of the person's recent behavior and knowledge of the person's past behavior or psychiatric treatment, that the person is mentally ill or mentally retarded and in imminent danger of injuring self or others if not immediately restrained. A peace or health officer or a person working under such officer's supervision, may take a person who is believed to be chemically dependent or is intoxicated in public into custody and transport the person to a treatment facility. If the person is intoxicated in public or is believed to be chemically dependent and is not in danger of causing self–harm or harm to any person or property, the peace or health officer may transport the person home. Written 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. If imminent danger to specific individuals is a basis for the emergency hold, the statement must include identifying information on those individuals, to the extent practicable. 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 under the following circumstances: 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 or mental retardation and appears to be in imminent danger of harming self or others; or, a written statement is made by the institution program director or the director's designee on duty at the facility that after preliminary examination the person has symptoms of chemical dependency and appears to be in imminent danger of harming self or others or is intoxicated in public.

Subd. 2a. **Transportation.** Insofar as it is practicable, a peace officer who provides transportation for a person placed in a facility under subdivision 1 may not be in uniform and may not use a vehicle visibly marked as a law enforcement vehicle.

Subd. 3. **Duration of hold.** (a) 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 court of the county of the person's residence or of the county in which the treatment facility is located and the court issues an order pursuant to section 253B.07, subdivision 6. If the head of the treatment facility believes that commitment is required and no petition has been filed, the head of the treatment facility 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 court of the county of the person's residence, if the person is a resident of Minnesota.

(b) During the 72–hour hold period, a court may not release a person held under this section unless the court has received a written petition for release and held a summary hearing regarding the release. The petition must include the name of the person being held, the basis for and location of the hold, and a statement as to why the hold is improper. The petition

also must include copies of any written documentation under subdivision 1 or 2 in support of the hold, unless the person holding the petitioner refuses to supply the documentation. The hearing must be held as soon as practicable and may be conducted by means of a telephone conference call or similar method by which the participants are able to simultaneously hear each other. If the court decides to release the person, the court shall issue written findings supporting the decision, but may not delay the release. Before deciding to release the person, the court shall make every reasonable effort to provide notice of the proposed release to: (1) any specific individuals identified in a statement under subdivision 1 or 2 or in the record as individuals who might be endangered if the person was not held; and (2) the examiner whose written statement was a basis for a hold under subdivision 1 or the peace or health officer who applied for a hold under subdivision 2.

(c) If a treatment facility releases a person during the 72–hour hold period, the head of the treatment facility shall immediately notify the agency which employs the peace or health officer who transported the person to the treatment facility under this section.

Subd. 4. **Change of status.** Any person admitted pursuant to this section shall be changed to the informal status provided by section 253B.04 upon the person's 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 the right 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.

History: *1982 c 581 s 5; 1983 c 251 s 8,9; 1986 c 444; 1991 c 64 s 1–3; 1995 c 189 s 4,5,8; 1996 c 277 s 1*

253B.06 MEDICAL EXAMINATION.

Subdivision 1. **Mentally ill and mentally retarded persons.** The head of a treatment facility shall arrange to have every patient hospitalized as mentally ill or mentally retarded pursuant to section 253B.04 or 253B.05 examined by a physician as soon as possible but no more than 48 hours following the time of admission. The physician shall be knowledgeable and trained in the diagnosis of the alleged disability related to the need for admission as a mentally ill or mentally retarded person.

Subd. 2. **Chemically dependent persons.** Patients hospitalized as chemically dependent pursuant to section 253B.04 or 253B.05 shall also be examined within 48 hours of admission. At a minimum, the examination shall consist of a physical evaluation by facility staff according to procedures established by a physician and an evaluation by staff knowledgeable and trained in the diagnosis of the alleged disability related to the need for admission as a chemically dependent person.

Subd. 3. **Discharge.** At the end of a 48–hour period, any patient admitted pursuant to section 253B.05 shall be discharged if an examination has not been held or if the examiner or evaluation staff person fails to notify the head of the treatment facility in writing that in the examiner's or staff person's opinion the patient is apparently in need of care, treatment, and evaluation as a mentally ill, mentally retarded, or chemically dependent person.

History: *1982 c 581 s 6; 1983 c 251 s 10; 1986 c 444*

253B.07 JUDICIAL COMMITMENT; PRELIMINARY PROCEDURES.

Subdivision 1. **Prepetition screening.** (a) Prior to filing a petition for commitment of a proposed patient, an interested person shall apply to the designated agency in the county of the proposed patient's residence or presence for conduct of a preliminary investigation, except when the proposed patient has been acquitted of a crime under section 611.026 and the county attorney is required to file a petition for commitment pursuant to subdivision 2. In any case coming within this exception, the county attorney shall apply to the designated county agency in the county in which the acquittal took place for a preliminary investigation unless substantially the same information relevant to the proposed patient's current mental condition as could be obtained by a preliminary investigation is part of the court record in the criminal proceeding or is contained in the report of a mental examination conducted in connection

with the criminal proceeding. 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 prepetition 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 prepetition screening team shall refuse to support a petition if the investigation does not disclose evidence sufficient to support commitment. Notice of the prepetition 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 prepetition 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 or a county attorney petitions pursuant to acquittal of a criminal charge under section 611.026, the prepetition investigation, if 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 court of the county of the proposed patient's residence or presence. Following an acquittal of a person of a criminal charge under section 611.026, the petition shall be filed by the county attorney of the county in which the acquittal took place and the petition shall be filed with the court in which the acquittal took place, and that court shall be the committing court for purposes of this chapter. The petition shall set forth the name and address of the proposed patient, the name and address of the patient's 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 the examiner 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. 2a. **Petition following acquittal; referral.** When a petition is filed pursuant to subdivision 2 with the court in which acquittal of a criminal charge took place, the court shall assign the judge before whom the acquittal took place to hear the commitment proceedings unless that judge is unavailable.

Subd. 3. **Examiners.** After a petition has been filed, the court in which the petition was filed shall appoint an examiner. Prior to the hearing, the court shall inform the proposed patient of the right to an independent second examination. 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. **Prehearing examination; notice and summons procedure.** A summons to appear for a prehearing 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 examiner's supporting statement, and the order for examination and a copy of the prepetition screening report shall be given to the proposed patient, patient's 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 nonuniformed person.

Subd. 5. **Prehearing 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 the 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 the patient's 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 253B.05 has been filed, the court may order the treatment facility to hold the person if the person is institutionalized or direct a health officer, peace officer, or other person to take the proposed patient into custody and transport the proposed patient 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 the person.

(b) The proposed patient, patient's 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, on its motion or on motion of any party, may exclude or excuse a respondent who is seriously disruptive or who is totally incapable of comprehending and participating in the proceedings. In such instances, the court shall, with specificity on the record, state the behavior of respondent or other circumstances justifying proceeding in the absence of the respondent.

(d) 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. The fact that a proposed patient was acquitted of a crime against the person under section 611.026 immediately preceding the filing of the petition constitutes evidence that serious imminent physical harm to the patient or others is likely if the proposed patient is not confined and shifts the burden of going forward in the presentation of evidence to the proposed patient; provided that the standard of proof remains as required by this chapter.

History: *1982 c 581 s 7; 1983 c 251 s 11–13; 1983 c 348 s 4–8; 1984 c 623 s 4; 1986 c 444; 1995 c 189 s 8; 1996 c 277 s 1*

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 pro-

posed patient has not had a hearing on a petition filed for the person's commitment within the allowed time, the proceedings shall be dismissed. The proposed patient, or the head of the treatment facility in which the person 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, patient's 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 patient's 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.** (a) The court may permit the proposed patient to waive the 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 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.

(b) The court, on its own motion or on motion of any party, may exclude or excuse a respondent who is seriously disruptive or who is totally incapable of comprehending and participating in the proceedings. In such instances, the court shall, with specificity on the record, state the behavior of respondent or other circumstances justifying proceeding in the absence of the respondent.

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.

In any case where the petition was filed immediately following a criminal proceeding in which the proposed patient was acquitted under section 611.026, the court shall take judicial notice of the record of the criminal proceeding.

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.

History: *1982 c 581 s 8; 1983 c 348 s 9; 1984 c 623 s 5; 1986 c 444; 1991 c 255 s 19*

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 program which can meet the patient's treatment needs consistent with section 253B.03, subdivision 7. In deciding on the least restrictive program, the court shall consider a range of treatment alternatives including, but not limited to, community–based nonresidential treatment, community residential treatment, partial hospitalization, acute care hospital, and regional treatment center services. The court shall also consider the proposed patient's treatment preferences and willingness to participate in the treatment ordered. The court may not commit a patient to a facility or program that is not capable of meeting the patient's needs.

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. [Repealed, 1988 c 623 s 17]

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 patient's counsel. This first report shall set forth the same information as is required in section 253B.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.

History: *1982 c 581 s 9; 1986 c 444; 1988 c 623 s 6*

253B.091 REPORTING JUDICIAL COMMITMENTS INVOLVING PRIVATE TREATMENT PROGRAMS OR FACILITIES.

Notwithstanding section 253B.23, subdivision 9, when a committing court judicially commits a proposed patient to a treatment program or facility other than a state–operated program or facility, the court shall report the commitment to the commissioner of human services through the supreme court information system for purposes of providing commitment information for firearm background checks under section 245.041.

History: *1994 c 618 art 1 s 28; 1994 c 636 art 3 s 3; 1995 c 207 art 8 s 31*

253B.093 COMMUNITY–BASED TREATMENT.

Subdivision 1. **Findings.** In addition to the findings required under section 253B.09, subdivision 2, an order committing a person to community–based treatment must include:

(1) a written plan for services to the patient;

(2) a finding that the proposed treatment is available and accessible to the patient and that public or private financial resources are available to pay for the proposed treatment;

(3) conditions the patient must meet in order to obtain an early release from commitment or to avoid a hearing for further commitment; and

(4) consequences of the patient's failure to follow the commitment order. Consequences may include commitment to another setting for treatment.

Subd. 2. **Case manager.** When a court commits a patient with mental illness to community–based treatment, the court shall appoint a case manager from the county agency or other entity under contract with the county agency to provide case management services.

Subd. 3. **Reports.** The case manager shall report to the court at least once every 90 days. The case manager shall immediately report a substantial failure of the patient or provider to comply with the conditions of the commitment.

Subd. 4. **Modification of order.** An order for community–based treatment may be modified upon agreement of the parties and approval of the court.

Subd. 5. **Noncompliance.** The case manager may petition for a reopening of the commitment hearing if a patient or provider fails to comply with the terms of an order for community–based treatment.

Subd. 6. **Immunity from liability.** No facility or person is financially liable, personally or otherwise, for actions of the patient if the facility or person follows accepted community standards of professional practice in the management, supervision, and treatment of the patient. For purposes of this subdivision, "person" means official, staff, employee of the facility, physician, or other individual who is responsible for the management, supervision, or treatment of a patient's community–based treatment under this section.

History: *1988 c 623 s 7*

253B.095 RELEASE BEFORE COMMITMENT.

Subdivision 1. **Court release.** After the hearing and before a commitment order has been issued, the court may release a proposed patient to the custody of an individual or agency upon conditions that guarantee the care and treatment of the patient. A person against whom a criminal proceeding is pending may not be released. Continuances may not extend beyond 14 days. When the court stays an order for commitment for more than 14 days beyond the date of the initially scheduled hearing, the court shall issue an order that meets the requirements of this section.

Subd. 2. **Stay beyond 14 days.** An order staying commitment for more than 14 days must include:

(1) a written plan for services to which the proposed patient has agreed;

(2) a finding that the proposed treatment is available and accessible to the patient and that public or private financial resources are available to pay for the proposed treatment; and

(3) conditions the patient must meet to avoid imposition of the stayed commitment order.

A person receiving treatment under this section has all rights under this chapter.

Subd. 3. **Case manager.** When a court releases a patient with mental illness under this section, the court shall appoint a case manager.

Subd. 4. **Reports.** The case manager shall report to the court at least once every 90 days. The case manager shall immediately report a substantial failure of a patient or provider to comply with the conditions of the release.

Subd. 5. **Duration.** The maximum duration of an order under this section is six months. The court may continue the order for a maximum of an additional 12 months if, after notice and hearing, under sections 253B.08 and 253B.09 the court finds that (1) the person continues to be mentally ill, and (2) an order is needed to protect the patient or others.

Subd. 6. **Modification of order.** An order under this section may be modified upon agreement of the parties and approval of the court.

Subd. 7. **Revocation of order.** 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 under this chapter.

History: *1988 c 623 s 8*

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 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 prepetition 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 253B.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 253B.09 or 253B.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.

History: *1982 c 581 s 10; 1986 c 444*

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 chapter 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 confinement is provided at a regional center, the commissioner shall charge the county of financial responsibility for the costs of confinement of persons hospitalized under section 253B.05, subdivisions 1 and 2, and section 253B.07, subdivision 6, except that the commissioner shall bill the responsible prepaid plan for medically necessary hospitalizations for individuals enrolled in a prepaid plan under contract to provide medical assistance, general assistance medical care, or MinnesotaCare services. If the prepaid plan determines under the terms of the medical assistance, general assistance medical care, or MinnesotaCare contract that a hospitalization was not medically necessary, the county is responsible. "County of financial responsibility" means the county in which the person resides at the time of confinement or, if the person has no residence in this state, the county which initiated the confinement. The charge shall be based on the commissioner's determination of the cost of care pursuant to section 246.50, subdivision 5. When there is a dispute as to which county is the county of financial responsibility, the county charged for the costs of confinement shall pay for them pending final determination of the dispute over financial responsibility. Disputes about the county of financial responsibility shall be submitted to the commissioner to be settled in the manner prescribed in section 256G.09.

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.

History: *1982 c 581 s 11; 1983 c 141 s 1; 1989 c 209 art 2 s 1; 1996 c 451 art 5 s 8*

253B.12 TREATMENT REPORT; REVIEW; HEARING.

Subdivision 1. **Report.** Prior to the termination of the initial commitment order or final 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 patient's 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 the opinion of the head of the facility the patient must continue to be committed to a treatment facility;

(8) whether in the opinion of the head of the facility the patient satisfies the statutory requirement for continued commitment, with documentation to support the opinion; and

(9) whether the administration of neuroleptic medication is clinically indicated, whether the patient is able to give informed consent to that medication, and the basis for these opinions.

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 of the right to an independent examination by an examiner chosen by the patient and appointed in accordance with provisions of section 253B.07, subdivision 3. The report of the examiner may be submitted at the hearing.

Subd. 4. **Hearing; standard of proof.** The committing 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, chemically dependent, or mentally retarded, the court need not find that there has been a recent attempt or threat to physically harm self or others, or a recent failure to provide necessary personal food, clothing, shelter, or medical care. Instead, the court must find that the patient is likely to attempt to physically harm self or others, or to fail to provide necessary personal food, clothing, shelter, or medical care 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, patient's 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 counsel, may waive any hearing under this section or section 253B.13 in writing. The waiver shall be signed by the patient and 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 the patient's 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.

History: *1982 c 581 s 12; 1983 c 251 s 14; 1983 c 348 s 10; 1986 c 444; 1990 c 378 s 2; 1995 c 189 s 6*

253B.13 DURATION OF CONTINUED COMMITMENT.

Subdivision 1. **Mentally ill persons.** If at the conclusion of a hearing held pursuant to section 253B.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 253B.07 and hearing and determination made on it. Notwithstanding the provisions of section 253B.09, subdivision 5, 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 253B.12, subdivision 4.

Subd. 2. **Mentally retarded persons.** If, at the conclusion of a hearing held pursuant to section 253B.12, it is found that the person continues to be mentally retarded, the court shall order commitment of the person for an indeterminate period of time, subject to the reviews required by section 253B.03, 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 253B.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 253B.07 and hearing and determination made on it. Notwithstanding the provisions of section 253B.09, 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.

History: *1982 c 581 s 13; 1983 c 251 s 15; 1985 c 231 s 1*

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 the commissioner's 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 the person's parent or spouse or, if none is known, to an interested person, and the designated agency.

History: *1982 c 581 s 14; 1986 c 444*

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 the patient 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 services and treatment to be provided as part of the aftercare plan, the financial resources available to pay for the services specified, the expected period of provisional discharge, the precise goals for the granting of a final discharge, and conditions or restrictions on the patient during the period of the provisional discharge.

The aftercare plan shall be 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. 1a. **Case manager.** Before a provisional discharge is granted, a representative of the designated agency must be identified as the case manager. The case manager shall ensure

continuity of care by being involved with the treatment facility and the patient prior to the provisional discharge. The case manager shall coordinate plans for and monitor the patient's aftercare program.

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 self 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, the patient's attorney, 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, the patient's 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 the rights of a patient 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 case manager 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. If a voluntary return is not arranged, the head of the treatment facility may request a health officer, a welfare officer, or a peace officer to return the patient to the treatment facility from which the patient was released or to any other treatment facility which consents to receive the patient. If necessary, the head of the treatment facility may request the committing court to 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 which consents to receive the patient. The expense of returning the patient to a treatment facility shall be paid by the commissioner unless paid by the patient or the patient's relatives.

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

Subd. 7. **Modification and extension of provisional discharge.** (a) A provisional discharge may be modified upon agreement of the parties.

(b) 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.

(c) 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.

(d) 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.

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

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 253B.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 discharged;

(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 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.

History: *1982 c 581 s 15; 1983 c 251 s 16–18; 1986 c 444; 1988 c 623 s 9–14*

253B.16 DISCHARGE OF COMMITTED PERSONS.

Subdivision 1. **Date.** The head of a treatment facility shall discharge any patient admitted as mentally ill or chemically dependent when certified by the head of the facility 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. The head of a treatment facility shall discharge any person admitted as mentally retarded when that person's screening team has determined, under section 256B.092, subdivision 8, that the person's needs can be met by services provided in the community and a plan has been developed in consultation with the interdisciplinary team to place the person in the available community services.

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.

History: *1982 c 581 s 16; 1986 c 444; 1988 c 623 s 15*

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. A patient committed as mentally ill or mentally ill and dangerous may petition the committing court or the court to which venue has been transferred for a hearing concerning the administration of neuroleptic medication.

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, patient's 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, patient's 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.

History: *1982 c 581 s 17; 1986 c 444; 1988 c 689 art 2 s 120; 1990 c 568 art 5 s 32; 1995 c 189 s 7*

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 253B.07 and 253B.08. 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. In any case where the petition was filed immediately following the acquittal of the proposed patient for a crime against the person pursuant to a verdict of not guilty by reason of mental illness, the verdict constitutes evidence that the proposed patient is mentally ill and dangerous within the meaning of this section and shifts the burden of going forward in the presentation of evidence to the proposed patient; provided that the standard of proof remains as required by this chapter. Admission procedures shall be carried out pursuant to section 253B.10.

Subd. 2. **Review; hearing.** A written treatment report shall be filed with the committing court within 60 days after commitment. If the person is in the custody of the commissioner of corrections when the initial commitment is ordered under subdivision 1, the written treatment report must be filed within 60 days after the person is admitted to the Minnesota security hospital or a private hospital receiving the person. The court, prior to making a final determination with regard to a person initially committed as mentally ill and dangerous to the pub-

lic, shall hold a hearing. The hearing shall be held within the earlier of 14 days of the court's receipt of the written treatment report, if one is filed, or within 90 days of the date of initial commitment or admission, unless otherwise agreed by the parties. 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. Failure of the treatment facility to provide the required report at the end of the 60–day period shall not result in automatic discharge of the patient.

Subd. 3. **Indeterminate commitment.** If the court finds at the hearing held pursuant to subdivision 2 that the patient continues to be mentally ill and dangerous, then the court shall 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 or discharged, 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 illness. One member of the special review board shall be a physician and one member shall be an attorney. No member shall be affiliated with the department of human services. The 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. 4a. **Release on pass; notification.** A patient who has been committed as mentally ill and dangerous and who is confined at the Minnesota security hospital shall not be released on a pass unless the pass is part of a pass plan that has been approved by the medical director of the Minnesota security hospital. At least ten days prior to a determination on the plan, the medical director shall notify the designated agency, the committing court, the county attorney of the county of commitment, an interested person, the petitioner, and the petitioner's counsel of the plan, the nature of the passes proposed, and their right to object to the plan. If any notified person objects prior to the proposed date of implementation, the person shall have an opportunity to appear, personally or in writing, before the medical director, within ten days of the objection, to present grounds for opposing the plan. The pass plan shall not be implemented until the objecting person has been furnished that opportunity. Nothing in this subdivision shall be construed to give a patient an affirmative right to a pass plan.

Subd. 4b. **Pass–eligible status; notification.** The following patients committed to the Minnesota security hospital shall not be placed on pass–eligible status unless that status has been approved by the medical director of the Minnesota security hospital:

(a) a patient who has been committed as mentally ill and dangerous and who

(1) was found incompetent to proceed to trial for a felony or was found not guilty by reason of mental illness of a felony immediately prior to the filing of the commitment petition;

(2) was convicted of a felony immediately prior to or during commitment as mentally ill and dangerous; or

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

(b) a patient who has been committed as a psychopathic personality, as defined in section 526.09.

At least ten days prior to a determination on the status, the medical director shall notify the committing court, the county attorney of the county of commitment, the designated agency, an interested person, the petitioner, and the petitioner's counsel of the proposed status, and their right to request review by the special review board. If within ten days of receiving notice any notified person requests review by filing a notice of objection with the commissioner and the head of the treatment facility, a hearing shall be held before the special review board. The proposed status shall not be implemented unless it receives a favorable

recommendation by a majority of the board and approval by the commissioner. The order of the commissioner is appealable as provided in section 253B.19.

Nothing in this subdivision shall be construed to give a patient an affirmative right to seek pass-eligible status from the special review board.

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, the designated agency, an interested person, the petitioner and petitioner's 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 an 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 statutory notice of 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 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, patient's 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 the rights of a patient under this chapter.

In all nonemergency 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 the rights of a patient 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. The head of the facility 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 the patient's relatives.

Subd. 13. **Appeal.** Any patient aggrieved by a revocation decision or any interested person may petition the special review board within seven days, 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.

History: *1982 c 581 s 18; 1983 c 216 art 1 s 83; 1983 c 251 s 19-22; 1983 c 348 s 11; 1984 c 623 s 6,7; 1984 c 654 art 5 s 58; 1986 c 444; 1991 c 148 s 3,4; 1992 c 571 art 3 s 4*

253B.185 PROCEDURES FOR COMMITMENT OF PERSONS WITH SEXUAL PSYCHOPATHIC PERSONALITIES AND SEXUALLY DANGEROUS PERSONS.

Subdivision 1. **General.** Except as otherwise provided in this section, the provisions of this chapter pertaining to persons mentally ill and dangerous to the public apply with like force and effect to persons who are alleged or found to be sexually dangerous persons or persons with a sexual psychopathic personality. Before commitment proceedings are instituted, the facts shall first be submitted to the county attorney, who, if satisfied that good cause exists, will prepare the petition. The county attorney may request a prepetition screening report. The petition is to be executed by a person having knowledge of the facts and filed with the committing court of the county in which the patient has a settlement or is present. If the patient is in the custody of the commissioner of corrections, the petition may be filed in the county where the conviction for which the person is incarcerated was entered. Upon the filing of a petition alleging that a proposed patient is a sexually dangerous person or is a person with a sexual psychopathic personality, the court shall hear the petition as provided in section 253B.18.

Subd. 2. **Transfer to correctional facility.** (a) If a person has been committed under this section and later is committed to the custody of the commissioner of corrections, the person may be transferred from a hospital to another facility designated by the commissioner of corrections as provided in section 253B.18; except that the special review board and the commissioner of human services may consider the following factors in lieu of the factors listed in section 253B.18, subdivision 6, to determine whether a transfer to the commissioner of corrections is appropriate:

(1) the person's unamenability to treatment;

(2) the person's unwillingness or failure to follow treatment recommendations;

(3) the person's lack of progress in treatment at the public or private hospital;

(4) the danger posed by the person to other patients or staff at the public or private hospital; and

(5) the degree of security necessary to protect the public.

(b) If a person is committed under this section after a commitment to the commissioner of corrections, the person shall first serve the sentence in a facility designated by the commissioner of corrections. After the person has served the sentence, the person shall be transferred to a regional center designated by the commissioner of human services.

Subd. 3. **Not to constitute defense.** The existence in any person of a condition of a sexual psychopathic personality or the fact that a person is a sexually dangerous person shall not in any case constitute a defense to a charge of crime, nor relieve such person from liability to be tried upon a criminal charge.

Subd. 4. **Statewide judicial panel; sexual psychopathic personality and sexually dangerous persons commitments.** (a) The supreme court may establish a panel of district judges with statewide authority to preside over commitment proceedings brought under subdivision 1. Only one judge of the panel is required to preside over a particular commitment proceeding. Panel members shall serve for one–year terms. One of the judges shall be designated as the chief judge of the panel, and is vested with the power to designate the presiding judge in a particular case, to set the proper venue for the proceedings, and to otherwise supervise and direct the operation of the panel. The chief judge shall designate one of the other judges to act as chief judge whenever the chief judge is unable to act.

(b) If the supreme court creates the judicial panel authorized by this section, all petitions for civil commitment brought under subdivision 1 shall be filed with the supreme court instead of with the district court in the county where the proposed patient is present, notwithstanding any provision of subdivision 1 to the contrary. Otherwise, all of the other applicable procedures contained in this chapter apply to commitment proceedings conducted by a judge on the panel.

History: *1Sp1994 c 1 art 1 s 4*

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 judges and four alternate judges appointed from among the acting 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 the chief judge 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. 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 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 human services.

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 designated agency, the commissioner, the head of the treatment facility, any interested person, and other persons the chief judge designates, of the time and place of the hearing on the petition. The notice shall be given at least 14 days prior to the date of the hearing. The hearing shall be within 45 days of the filing of the petition. Any person may oppose the petition. The appeal panel may appoint examiners and may adjourn the hearing from time to time. It shall hear and receive all relevant testimony and evidence and make a record of all proceedings. The patient, patient's counsel, and the county attorney of the committing county may be present and present and cross–examine all witnesses. The petitioning party bears the burden of going forward with the evidence. The party opposing discharge bears the burden of proof by clear and convincing evidence that the respondent is in need of commitment.

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.** A party aggrieved by an order of the appeal panel may appeal from the decision of the appeal panel to the court of appeals as in other civil cases. 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.

History: *1982 c 581 s 19; 1983 c 216 art 1 s 37; 1983 c 247 s 106; 1983 c 251 s 23; 1983 c 348 s 12; 1984 c 654 art 5 s 58; 1986 c 444; 1987 c 377 s 4; 1991 c 148 s 5; 1994 c 636 art 8 s 2*

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 the person 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 the patient's 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 the patient is entitled by residence and circumstances. 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. **Aftercare 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 aftercare 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 the patient's readjustment to the community.

Subd. 5. **Consultation.** In establishing the plan for aftercare services the designated agency shall consult with persons or agencies, including any public health nurse as defined in section 145A.02, subdivision 18, and vocational rehabilitation personnel, to insure adequate planning and periodic review for aftercare 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 the committed person resides for treatment. The head of the treatment facility , on determining that the applicant requires service, 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.

History: *1982 c 581 s 20; 1986 c 444; 1987 c 309 s 24*

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 confined pursuant to conviction of any felony or gross misdemeanor or if acquitted of the charge under section 611.026, 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.

History: *1982 c 581 s 21; 1983 c 348 s 13; 1986 c 444*

253B.212 COMMITMENT BY TRIBAL COURT; RED LAKE BAND OF CHIPPEWA INDIANS.

Subdivision 1. **Cost of care.** The commissioner of human services may contract with and receive payment from the Indian Health Service of the United States Department of Health and Human Services for the care and treatment of those members of the Red Lake Band of Chippewa Indians who have been committed by tribal court order to the Indian Health Service for care and treatment of mental illness, mental retardation, or chemical dependency. The contract shall provide that the Indian Health Service may not transfer any person for admission to a regional center unless the commitment procedure utilized by the tribal court provided due process protections similar to those afforded by sections 253B.05 to 253B.10.

Subd. 2. **Effect given to tribal commitment order.** When, under an agreement entered into pursuant to subdivision 1, the Indian Health Service applies to a regional center for admission of a person committed to the jurisdiction of the health service by the tribal court as mentally ill, mentally retarded, or chemically dependent, the commissioner may treat the patient with the consent of the Indian Health Service.

A person admitted to a regional center pursuant to this section has all the rights accorded by section 253B.03. In addition, treatment reports, prepared in accordance with the requirements of section 253B.12, subdivision 1, shall be filed with the Indian Health Service within 60 days of commencement of the patient's stay at the facility. A subsequent treatment report shall be filed with the Indian Health Service within six months of the patient's admission to the facility or prior to discharge, whichever comes first. Provisional discharge or transfer of the patient may be authorized by the head of the treatment facility only with the consent of the Indian Health Service. Discharge from the facility to the Indian Health Service may be authorized by the head of the treatment facility after notice to and consultation with the Indian Health Service.

History: *1983 c 251 s 24; 1984 c 654 art 5 s 58*

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, mental retardation, or chemical dependency, 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 the commissioner's 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.

History: *1982 c 581 s 22; 1983 c 251 s 25; 1986 c 444*

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 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) 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. 1a. **Authority to detain and transport a missing patient.** If a patient committed under this chapter or detained under a court–ordered hold is absent without authorization, and either (1) does not return voluntarily within 72 hours of the time the unauthorized absence began; or (2) is considered by the head of the treatment facility to be a danger to self or others, then the head of the treatment facility shall report the absence to the local law enforcement agency. The head of the treatment facility shall also notify the committing court that the patient is absent and that the absence has been reported to the local law enforcement agency.

Upon receiving a report that a patient subject to this section is absent without authorization, the local law enforcement agency shall enter information on the patient through the criminal justice information system into the missing persons file of the National Crime Information Center computer according to the missing persons practices.

A patient about whom information has been entered under this section may be apprehended and held by a peace officer in any jurisdiction pending return to the facility from which the patient is absent without authorization. A patient may also be returned to any facility operated by the commissioner of human services. Patients committed as mentally ill and dangerous, a sexual psychopathic personality, or a sexually dangerous person under section 253B.18, and detained under this subdivision, may be held in a jail or lockup only if:

(1) there is no other feasible place of detention for the patient;

(2) the detention is for less than 24 hours; and

(3) there are protections in place, including segregation of the patient, to ensure the safety of the patient.

If a patient is detained under this subdivision, the head of the treatment facility from which the patient is absent shall arrange to pick up the patient within 24 hours of the time detention was begun and shall be responsible for securing transportation for the patient to the facility. The expense of detaining and transporting a patient shall be the responsibility of the treatment facility from which the patient is absent. The expense of detaining and transporting a patient to a treatment facility operated by the department of human services shall be paid by the commissioner unless paid by the patient or the patient's relatives.

Immediately after an absent patient is located, the head of the treatment facility from which the patient is absent, or the law enforcement agency that located or returned the absent patient, shall notify the law enforcement agency that first received the absent patient report

under this section and that agency shall cancel the missing persons entry from the National Crime Information Center computer.

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 253B.03, 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 a personal 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 the attorney general's 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, patient and examiner, or patient and social worker, is waived as to any physician, examiner, or social worker 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 judge upon a petition for the commitment of a patient when the judge is unable to act.

Subd. 7. **Appeal.** The commissioner or any other aggrieved party may appeal to the court of appeals from any order entered under this chapter as in other civil cases. Any order or judgment under this chapter or related case law may be appealed within 60 days after the order or entry of judgment. A judgment under section 253B.18, subdivision 1, may be appealed within 60 days after the date of the order entered under section 253B.18, subdivision 2.

Upon perfection of the appeal, the return shall be filed forthwith. The court of appeals shall hear the appeal within 60 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 court of appeals.

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 the party 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 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.

History: *1982 c 581 s 23; 1983 c 247 s 107; 1983 c 251 s 26; 1983 c 348 s 14; 1986 c 444; 1987 c 363 s 13; 1990 c 378 s 3; 1993 c 60 s 1; 1993 c 302 s 1; 1994 c 618 art 1 s 29; 1Sp1994 c 1 art 2 s 30; 1995 c 189 s 8; 1996 c 277 s 1*