

**253B.09 DECISION; STANDARD OF PROOF; DURATION.**

Subdivision 1. **Standard of proof.** (a) If the court finds by clear and convincing evidence that the proposed patient is a person who poses a risk of harm due to mental illness, or is a person who has a developmental disability or chemical dependency, and after careful consideration of reasonable alternative dispositions including but not limited to dismissal of petition; voluntary outpatient care; voluntary admission to a treatment facility, state-operated treatment program, or community-based treatment program; 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 or alternative programs which can meet the patient's treatment needs consistent with section 253B.03, subdivision 7.

(b) 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, assertive community treatment teams, and state-operated treatment programs. The court shall also consider the proposed patient's treatment preferences and willingness to participate voluntarily 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.

(c) If, after careful consideration of reasonable alternative dispositions, the court finds no suitable alternative to judicial commitment and the court finds that the least restrictive alternative as determined in paragraph (a) is a treatment facility or community-based treatment program that is less restrictive or more community based than a state-operated treatment program, and there is a treatment facility or a community-based treatment program willing to accept the civilly committed patient, the court may commit the patient to both the treatment facility or community-based treatment program and to the commissioner, in the event that treatment in a state-operated treatment program becomes the least restrictive alternative. If there is a change in the patient's level of care, then:

(1) if the patient needs a higher level of care requiring admission to a state-operated treatment program, custody of the patient and authority and responsibility for the commitment may be transferred to the commissioner for as long as the patient needs a higher level of care; and

(2) when the patient no longer needs treatment in a state-operated treatment program, the program may provisionally discharge the patient to an appropriate placement or release the patient to the treatment facility or community-based treatment program if the program continues to be willing and able to readmit the patient, in which case the commitment, its authority, and responsibilities revert to the non-state-operated treatment program. Both agencies accepting commitment shall coordinate admission and discharge planning to facilitate timely access to the other's services to meet the patient's needs and shall coordinate treatment planning consistent with section 253B.03, subdivision 7.

(d) If a person is committed to a state-operated treatment program as a person who poses a risk of harm due to mental illness or as a person who has a developmental disability or chemical dependency, the court shall order the commitment to the commissioner. The commissioner shall designate the placement of the person to the court.

(e) If the court finds a proposed patient to be a person who poses a risk of harm due to mental illness under section 253B.02, subdivision 17a, paragraph (a), clause (4), the court shall commit the patient to a treatment facility or community-based treatment program that meets the proposed patient's needs.

Subd. 2. **Findings.** (a) The court shall find the facts specifically, and separately state its conclusions of law. 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.

(b) If commitment is ordered, the findings shall also identify less restrictive alternatives considered and rejected by the court and the reasons for rejecting each alternative.

(c) If the proceedings are dismissed, the court may direct that the person be transported back to a suitable location including to the person's home.

Subd. 3. MS 2018 [Repealed, 1Sp2020 c 2 art 6 s 124]

Subd. 3a. **Reporting judicial commitments; private treatment program or facility.** Notwithstanding section 253B.23, subdivision 9, when a court commits a patient to a non-state-operated treatment facility or program, the court shall report the commitment to the commissioner through the supreme court information system for purposes of providing commitment information for firearm background checks under section 245.041. If the patient is committed to a state-operated treatment program, the court shall send a copy of the commitment order to the commissioner.

Subd. 4. [Repealed, 1988 c 623 s 17]

Subd. 5. **Initial commitment period.** The initial commitment begins on the date that the court issues its order or warrant under section 253B.10, subdivision 1. For a person committed as a person who poses a risk of harm due to mental illness, a developmental disability, or chemical dependency, the initial commitment shall not exceed six months.

**History:** 1982 c 581 s 9; 1986 c 444; 1988 c 623 s 6; 1997 c 217 art 1 s 55-59; 1998 c 313 s 7; 1Sp2001 c 9 art 9 s 35; 2002 c 221 s 23; 2002 c 335 s 3; 2002 c 379 art 1 s 113; 1Sp2003 c 14 art 6 s 47; 2005 c 56 s 1; 1Sp2020 c 2 art 6 s 49-52,123; art 8 s 145