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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **3484**

March 8, 2010

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The bill was read for the first time and referred to the Committee on Civil Justice

1.1 A bill for an act
1.2 relating to civil commitment; modifying certain emergency hold provisions;
1.3 amending Minnesota Statutes 2008, sections 253B.02, by adding a subdivision;
1.4 253B.05, subdivisions 1, 2b, 3.

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

1.6 Section 1. Minnesota Statutes 2008, section 253B.02, is amended by adding a
1.7 subdivision to read:

1.8 Subd. 10a. **Legal holiday.** "Legal holiday" means a holiday under section 645.44,
1.9 subdivision 5, or under federal law.

1.10 Sec. 2. Minnesota Statutes 2008, section 253B.05, subdivision 1, is amended to read:

1.11 Subdivision 1. **Emergency hold.** (a) Any person may be admitted or held for
1.12 emergency care and treatment in a treatment facility with the consent of the head of the
1.13 treatment facility upon a written statement by an examiner that:

1.14 (1) the examiner has examined the person not more than ~~15~~ ten days prior to
1.15 admission;

1.16 (2) the examiner is of the opinion, for stated reasons, that the person is mentally ill,
1.17 developmentally disabled, or chemically dependent, and is in danger of causing injury to
1.18 self or others if not immediately detained; and

1.19 (3) an order of the court cannot be obtained in time to prevent the anticipated injury.

1.20 (b) If the proposed patient has been brought to the treatment facility by another
1.21 person, the examiner shall make a good faith effort to obtain a statement of information
1.22 that is available from that person, which must be taken into consideration in deciding
1.23 whether to place the proposed patient on an emergency hold. The statement of information

2.1 must include, to the extent available, direct observations of the proposed patient's
 2.2 behaviors, reliable knowledge of recent and past behavior, and information regarding
 2.3 psychiatric history, past treatment, and current mental health providers. The examiner
 2.4 shall also inquire into the existence of health care directives under chapter 145, and
 2.5 advance psychiatric directives under section 253B.03, subdivision 6d.

2.6 (c) The examiner's statement shall be: (1) sufficient authority for a peace or health
 2.7 officer to transport a patient to a treatment facility, (2) stated in behavioral terms and not in
 2.8 conclusory language, and (3) of sufficient specificity to provide an adequate record for
 2.9 review. If danger to specific individuals is a basis for the emergency hold, the statement
 2.10 must identify those individuals, to the extent practicable. A copy of the examiner's
 2.11 statement shall be personally served on the person immediately upon admission and a
 2.12 copy shall be maintained by the treatment facility.

2.13 Sec. 3. Minnesota Statutes 2008, section 253B.05, subdivision 2b, is amended to read:

2.14 Subd. 2b. **Notice.** Every person held pursuant to this section must be informed in
 2.15 writing at the time of admission of the right to:

2.16 (1) leave after 72 hours or 96 hours if 72 hours falls on a Saturday, Sunday, or a
 2.17 legal holiday;

2.18 (2) be released into the care of a family member after 48 hours;

2.19 ~~to~~ (3) a medical examination within 48 hours; ~~and;~~

2.20 ~~to~~ (4) request a change to voluntary status;

2.21 (5) be provided with a copy of this section if requested; and

2.22 (6) contest the hold under subdivision 3, paragraph (c).

2.23 The treatment facility shall, upon request, assist the person in exercising the rights
 2.24 granted in this subdivision.

2.25 Sec. 4. Minnesota Statutes 2008, section 253B.05, subdivision 3, is amended to read:

2.26 Subd. 3. **Duration of hold.** (a) Any person held pursuant to this section may be
 2.27 involuntarily held up to 72 hours; after admission unless:

2.28 (1) a court order to hold the person longer is obtained;

2.29 (2) the person agrees to remain longer under voluntary status; or

2.30 (3) the exception in paragraph (b) applies.

2.31 (b) The 72-hour time period for an involuntary hold is determined exclusive of
 2.32 Saturdays, Sundays, and legal holidays after admission; so that the treatment facility may
 2.33 make staffing arrangements necessary to accommodate the release of a person held under

3.1 this section on a Saturday, Sunday, or legal holiday. However, a hold may not last more
3.2 than 96 hours because of the Saturday, Sunday, or legal holiday.

3.3 (c) Except for a judicial hold, and notwithstanding paragraph (e) or other law to the
3.4 contrary, after 48 hours, a person held under this section may be released in the care of
3.5 a spouse, adult child, or parent for the remaining duration of the 72-hour hold provided
3.6 that the danger to the person assuming care is not specifically listed in the examiner's
3.7 report under subdivision 1, paragraph (c). The health care facility may issue a statement
3.8 disagreeing with a release under this section to accompany the notice required under
3.9 paragraph (e), but must release the held person if the person and the person assuming
3.10 care consent in writing. Notwithstanding paragraph (g), if a peace or health officer
3.11 is subsequently summoned to the location of the held person after release, but before
3.12 the expiration of 72 hours for a situation pertaining to the reason for the initial hold, a
3.13 subsequent 72-hour hold may be issued and this paragraph shall not apply.

3.14 (d) If a petition for the commitment of the person is filed in the district court in the
3.15 county of the person's residence or of the county in which the treatment facility is located,
3.16 the court may issue a judicial hold order pursuant to section 253B.07, subdivision 2b.

3.17 ~~(b)~~ (e) During the 72-hour hold period, a court may not release a person held under
3.18 this section unless the court has received a written petition for release and held a summary
3.19 hearing regarding the release. The person held or someone acting on the behalf of the held
3.20 person may file a petition under this paragraph. The petition must include the name of
3.21 the person being held, the basis for and location of the hold, and a statement as to why
3.22 the hold is improper. The petition also must include copies of any written documentation
3.23 under subdivision 1 or 2 in support of the hold, unless the person holding the petitioner
3.24 refuses to supply the documentation. The hearing must be held as soon as practicable and
3.25 may be conducted by means of a telephone conference call or similar method by which
3.26 the participants are able to simultaneously hear each other. If the court decides to release
3.27 the person, the court shall direct the release and shall issue written findings supporting
3.28 the decision. The release may not be delayed pending the written order and must be
3.29 conducted immediately. Before deciding to release the person, the court shall make every
3.30 reasonable effort to provide notice of the proposed release to:

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

3.33 (2) the examiner whose written statement was a basis for a hold under subdivision
3.34 1; and

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

4.1 ~~(e)~~ (f) If a person is intoxicated in public and held under this section for
4.2 detoxification, a treatment facility may release the person without providing notice under
4.3 paragraph (d) as soon as the treatment facility determines the person is no longer a danger
4.4 to themselves or others. Notice must be provided to the peace officer or health officer
4.5 who transported the person, or the appropriate law enforcement agency, if the officer
4.6 or agency requests notification.

4.7 ~~(d)~~ (g) If a treatment facility releases a person during the 72-hour hold period, the
4.8 head of the treatment facility shall immediately notify the agency which employs the peace
4.9 or health officer who transported the person to the treatment facility under this section.

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