

# House Research Act Summary

**CHAPTER:** 102

**SESSION:** 2011 Regular Session

**TOPIC:** DHS Policy; MSOP

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## Section

### Article 1: Transfers and Readmissions

- 1**      **Transfer; voluntary readmission to a secure facility.** Amends § 253B.185, by adding subdivision 11a. Paragraph (a) allows a patient who has been transferred from the secure treatment facility to voluntarily return to the secure facility for up to 60 days.

Paragraph (b) provides that if the patient does not leave the secure facility within 60 days of readmission, the transfer is revoked and the patient must remain at the secure facility. Requires the patient to be notified of the revocation.

Paragraph (c) permits patient to petition the special review board within 15 days of receiving notice for a review of the revocation.

Paragraph (d) states that if the transfer is not revoked and the patient is to be returned to the facility to which the patient was initially transferred with no substantive changes to transfer conditions, no action by the special review board or judicial appeal panel is required.
- 2**      **Transfer; revocation.** Amends § 253B.185, by adding subdivision 11b. Paragraph (a) permits the executive director to revoke a transfer and require the patient's return to the secure facility when remaining in a nonsecure setting will not provide a reasonable degree of safety to the patient or others, or the patient has regressed in clinical progress.

Paragraph (b) requires the patient to immediately return to the secure facility upon revocation of the transfer. Requires the executive director to issue a report documenting the

rationale for revocation within seven days after the patient is returned to the secure facility.

Paragraph (c) provides that the patient must be given a copy of the report and informed of the rights of the patient under this subdivision. Requires service on the patient and the patient's counsel.

Paragraph (d) states that the patient must successfully repetition the special review board and judicial appeal panel prior to being transferred from the secure facility.

Paragraph (e) permits a patient to petition the special review board within seven days of receipt of the revocation report for a review. Provides that the review must be scheduled within 30 days. Allows the panel to recommend a new transfer out of the secure facility at the time of the revocation hearing.

- 3**      **Provisional discharge; voluntary readmission.** Amends § 253B.185, by adding subdivision 14a. Paragraph (a) allows a patient to voluntarily return to the secure facility from provisional discharge for a period of up to 60 days with the consent of the facility's executive director.

Paragraph (b) provides that if the patient is not returned to provisional discharge within 60 days, the provisional discharge is revoked. Requires the patient receive notice and allows the patient to request a review within 15 days of receiving the revocation notice. Requires the board to review the circumstances of the revocation, and allows the board to recommend a return to provisional discharge.

Paragraph (c) states that if the provisional discharge has not been revoked, then the patient can return to provisional discharge without further action.

- 4**      **Effective date.** Provides that sections 1 to 3 are effective the day following final enactment.

## **Article 2: Absent without Authorization**

- 1**      **Apprehension; return to facility.** Amends § 253B.141, subdivision 2. Strikes reference to persons committed as a sexual psychopathic personality or sexually dangerous person under section 253B.185. Makes this subdivision applicable only to individuals who are committed as mentally ill and dangerous.

- 2**      **Return of absent patient.** Amends § 253B.185, subdivision 16. Paragraph (a) requires the head of the treatment facility to notify local law enforcement when a patient is absent without authorization, including failure to return to the program when a provisional discharge is revoked. Requires notification to the committing court and instructs the court to issue an apprehend and hold order.

Paragraph (b) permits a DHS employee to apprehend, detain, or transport an absent patient.

Paragraph (c) requires law enforcement, upon receipt of the apprehend and hold order or notification of absence by the facility head, to enter information on the patient into the NCIC database for missing persons. Where probable cause exists to believe the patient has escaped from custody, law enforcement must seek a felony arrest warrant and enter the warrant into the NCIC database.

Paragraph (d) instructs the MSOP to disclose information about the absent patient that is relevant to the apprehension of the patient.

Paragraph (e) provides that a law enforcement officer in any jurisdiction shall apprehend and hold the absent patient pending return to a facility operated by the MSOP.

Paragraph (f) states that a patient detained under this subdivision can be held in a jail only under specified circumstances. Provides that if the patient was picked up on the felony warrant for escape from custody, the patient can be held in jail.

Paragraph (g) requires the MSOP to arrange to pick up an apprehended patient within 24 hours. Places responsibility for securing transportation and bearing the expense of detaining and transporting the patient on the MSOP.

Paragraph (h) requires the MSOP or the apprehending law enforcement agency to notify the law enforcement agency that took the initial report so that agency can cancel the NCIC missing persons report.

- 3 **Acts prohibited.** Amends § 609.485, subdivision 2. Clarifies that individuals who escape while in or under the supervision of any MSOP program is considered to have violated the criminal escape from custody statute.
- 4 **Effective date.** Provides that section 1 to 3 are effective the day following final enactment.

### **Article 3: Commitment procedure**

- 1 **Commitment generally.** Amends § 253B.185, subdivision 1. Provides that the written treatment report and review hearing is not required when a petition has been filed alleging a person is a sexually dangerous person or has a sexual psychopathic personality. States that the provision requiring indeterminate commitment is inapplicable.

States that this section is effective the day following final enactment for all petitions filed on or after that date.

### **Article 4: Community notification**

- 1 **Scope of community notification.** Amends § 253B.185, by adding subdivision 10a. Paragraph (a) provides that law enforcement is to make community notification when an individual who was committed as a sexually dangerous person or a sexual psychopathic personality is released into the community. Requires law enforcement to make the notifications consistent with the notification requirements for level III predatory offenders regardless of the level of risk assigned to the patient.

Paragraph (b) allows an individual who has lived in the community for four years to petition to have the scope of the notification and disclosure based on the individual's assigned level of risk.

Paragraph (c) states that the four year period starts over if the individual's provisional

discharge or discharge is revoked. Allows the head of the facility discretion to determine whether the individual may petition before four years have elapsed if subsequently given a discharge or provisional discharge.

Paragraph (d) requires a multidisciplinary team to determine whether to grant the petition under paragraph (b). The head of the facility makes the final determination, and there is no appeal of this decision. The individual may petition again after two years from the date of denial, if the petition is denied.

Paragraph (e) provides that there is no affirmative right to petition earlier than four years.

Paragraph (f) states that the head of the treatment facility acts in the place of the individual's correction agent for purposes of this review, if the individual has not been assigned to a corrections agent.

Provides that this section is effective the day following final enactment for disclosures required on or after that date.

### **Article 5: Parties to the Petition**

- 1 Petition; hearing.** Amends § 253B.19, subdivision 2. Makes a technical change.

Makes this section effective the day following final enactment for all petitions filed or orders to hold a hearing issued on or after that date.

### **Article 6: Sex Offender Civil Commitment Statutes**

- 1 Statutory review.** Instructs the commissioner of human services, in consultation with the revisor of statutes, to review existing commitment laws related to sexual psychopathic personalities or sexually dangerous persons and propose legislation to organize the laws and distinguish it from laws related to other forms of civil commitment. Requires the proposed legislation to be prepared for the 2012 legislative session.

Provides that this section is effective the day following final enactment.