

# HOUSE RESEARCH

## Bill Summary

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### Overview

The bill contains various provisions regarding civil commitment, including provisions relating to the definition of mentally ill person, notice requirements, voluntary admission and treatment criteria, emergency hold and prepetition screening requirements, and clarifies provisions on substitute decision makers for persons with mental illness.

### Section

- 1 **Mentally ill person.** Amends § 253B.02, subd. 13. Modifies the definition of "mentally ill person" in the Civil Commitment Act in two respects. Current law provides that one evidence of mental illness is failure to obtain certain kinds of self-care. The bill would change this item to reference (1) the inability of the person to care for self for reasons other than indigence, and (2) that it is more probable than not that the person will suffer substantial harm, significant psychiatric deterioration or serious illness, unless appropriate treatment and services are provided.  
Also adds a new kind of evidence of mental illness: recent and intentional conduct involving significant damage to substantial property.
- 2 **Periodic assessment.** Amends § 253B.03, subd. 5. Amends the law that gives committed patients a right to periodic medical assessment. Adds that if the treatment facility declines continuing care, the patient must be given specific reasons why care is declined.
- 3 **Notification.** Amends § 253B.03, subd. 10. Specifies the notice of patient rights regarding hospitalization and other treatment that must be provided to individuals admitted or committed to a treatment facility. Provides that notice must include:
  - (1) rights in the patient's bill of rights, including nursing home discharge rights;
  - (2) right to obtain treatment and services voluntarily;
  - (3) right to voluntary admission and release;

(4) rights regarding an emergency hold, including the right to a summary judicial hearing if the patient believes an emergency hold is improper;

(5) right to expedited review under the utilization review of health care act if additional inpatient days are denied;

(6) right to continuing benefits pending appeal and the right to administrative hearing if the patient receives medical assistance (MA), general assistance medical care (GAMC), or MinnesotaCare; and

(7) right to an external appeal and second opinion under the health plan company law.

4 **Proxy.** Amends § 253B.03, by adding subd. 11. Amends the commitment act to state that a patient's rights may be exercised by a legally authorized health care proxy, agent, guardian, or conservator.

5 **Voluntary admission and treatment.** Amends § 253B.04, subd. 1. Specifies that in making decisions about voluntary admission, a treatment facility must use admission standards consistent with those of national adult and pediatric psychiatric associations. Requires the criteria to be no more restrictive than the requirements of the Minnesota health plan company statute. Prohibits refusing voluntary admission to someone who does not meet criteria for an emergency hold or the definition of mental illness in the commitment act.

6 **Voluntary treatment or admission for persons with mental illness.** Amends § 253B.04, subd. 1a. Amends existing law granting immunity to a provider who treats a patient who lacks capacity to give consent. Extends the same immunity to a substitute decision maker appointed by the court.

7 **Court appointment of substitute decision maker.** Amends § 253B.04, by adding subd. 1b. If the entity that provides civil commitment and mental health services declines to give informed consent for a person who is seeking treatment or admission to a treatment facility, the person seeking treatment or admission--or an interested person acting on that person's behalf--may petition for a substitute decision maker to give informed consent for voluntary treatment and services.

8 **Emergency hold.** Amends § 253B.05, subd. 1. (a) Clarifies that emergency hold involves detention rather than restraint. Strikes the requirement that danger must be imminent in order to allow an emergency hold.

(b) Provides that if a proposed patient is brought in by another person, the examiner must make a good faith effort to obtain and consider information from that person in regard to a possible emergency hold. Information to consider includes direct observations of patient behavior, reliable knowledge of recent and past behavior, and information about psychiatric history, past treatment, and current mental health providers. Requires the examiner to ask if the proposed patient has a health care directive or advance psychiatric directive.

9 **Treatment alternatives.** Amends § 253B.066, subd. 1. Lengthens from ten to 21 days the maximum duration of hospitalization under the early intervention option in the civil commitment act.

10 **Prepetition screening.** Amends § 253B.07, subd. 1. (a) Excludes the petitioner in a commitment case from serving on the prepetition screening team. Modifies requirements for the screening team's investigation.

(b) Allows the prepetition screening report to be admitted as evidence if counsel agrees.

(c) Provides that the prepetition screening team must give notice, including the following information, to a proposed patient, the petitioner, persons named in an advance declaration by the patient, and other persons with the patient's consent: the patient's legal rights in connection with commitment, and the fact that, if the patient is committed to a state regional treatment

center or group home, the patient may be billed for the costs of the care and the state can make a claim against the patient's estate for it. Requires the ombudsman for mental health and mental retardation to develop a form for the notice.

(d) Requires that the statement of facts in the prepetition screening team's written report recommending commitment meet certain requirements.

(e) Requires that notice of the prepetition screening team's decision to refuse to support a petition be given to the proposed patient.

(f) Requires that the county attorney determine whether or not to proceed with the petition when an interested person wishes to proceed with the petition contrary to the recommendation of the prepetition screening team.

11 **The petition.** Amends § 253B.07, subd. 2. Amends the provision on filing a commitment petition. Requires that (1) if information is available about possible use of neuroleptics by the patient, the information must be included on the examiner's statement; and (2) if neuroleptic medication (one category of prescriptions for mental illness that carries risk of nerve damage) may be recommended for the patient, a request for a proceeding to authorize such medication must be included with the commitment petition. Currently, these can be handled in separate proceedings.

12 **Standard of proof.** Amends § 253B.09, subd. 1. (c) Specifies that the following behaviors do not constitute refusal to accept appropriate mental health treatment: (1) disagreement about type or dosage of recommended medication, (2) good faith effort to follow a reasonable alternative treatment plan, (3) inability to obtain appropriate treatment because of insurance coverage limits or insurer refusal or delay, or (4) inability to obtain treatment because a provider will only accept, or gives priority to, patients who are court ordered.

13 **Effective date.** Makes sections 1 to 12 effective July 1, 2002.