

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 1139

DATE: May 9, 2013

Version: First engrossment as amended by H1139A6-1

Authors: Liebling and Abeler

Subject: Sexual violence prevention; MSOP

Analyst: Lynn Aves and Jeff Diebel

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd/.

Article 1: Strict and Intensive Supervision and Treatment and Public Education Campaign Overview

This article instructs the commissioner to ensure there is adequate capacity to provide strict and intensive supervision and treatment. It requires the commissioner to develop education programs for the public and for professionals.

- 1 Strict and intensive supervision and treatment.** Requires the commissioner of human services to ensure a regimen of treatment that provides strict and intensive supervision and treatment for individuals who are civilly committed with a sexual psychopathic personality or as a sexually dangerous person.
- 2 Education relating to sex offender civil commitment procedural changes.** Requires the commissioner of human services to develop and provide education on specified topics related to sex offender civil commitment to legal professionals and court-appointed examiners.
- 3 Public education campaign.** Instructs the commissioner of human services to develop a public education campaign to inform the public about the 2012 MSOP class action lawsuit, the advisory task force, and the legislative response.

Section

Article 2: Civil Commitment Modifications

Overview

This article makes changes to commitment statutes for those individuals who are committed to strict and intensive supervision and treatment. It requires biennial reviews of a committed person's placement and treatment progress.

- 1 **Liability of county; reimbursement.** Amends § 246B.10. Clarifies that the county's obligation to pay 25 percent of the cost of care of civilly committed sex offenders applies to persons placed on strict and intensive supervision and treatment.
- 2 **Special review board.** Amends § 253B.18, subd. 4c. Cross-reference change to reflect new subdivision of § 253B.19 proposed in sections 17 and 18.
- 3 **Commitment generally.** Amends § 253B.185, subd. 1. Provides an individual shall be committed and placed in a secure treatment facility for evaluation and proposed disposition when the court finds by clear and convincing evidence that the individual is a sexually dangerous person or a person with a sexual psychopathic personality. Requires completion of an evaluation and disposition report within 60 days. Requires the disposition report to recommend whether the person should be placed on strict and intensive supervision and treatment or in a secure treatment facility. The court has 30 days after receiving a report prepared under this section to make a final disposition of the case.
- 4 **Strict and intensive supervision and treatment.** Amends § 253B.185, by adding subd. 1c.

Paragraph (a) provides that if a plan for strict and intensive supervision and treatment is proposed, the court shall commit the person to strict and intensive supervision and treatment unless the petitioner proves by a preponderance of the evidence that the plan is not sufficient to meet the person's treatment needs or public safety requirements.

Paragraph (b) requires the MSOP to prepare a plan for strict and intensive supervision and treatment when an individual is committed for this form of treatment. Requires the plan to be submitted for court approval within 60 days.

Paragraph (c) provides that when an individual is committed for this form of treatment, the individual is committed to the commissioner, and is subject to conditions set by the court and the program.

Paragraph (d) establishes the criteria needed to revoke intensive supervision and for the court to issue an order for the individual to be placed in a secure treatment facility.

Paragraph (e) provides that this subdivision does affect or replace registration or notice requirements.

Section

5 Biennial review of placement level. Amends § 253B.185, by adding subd. 9a.

Paragraph (a) instructs the commissioner to appoint an examiner to conduct a reexamination of each committed person within 24 months after the date of initial commitment and at least each 24 months thereafter.

Paragraph (b) requires the report to be completed within 30 days of the reexamination.

Paragraph (c) allows the court to request a reexamination at any time.

Paragraph (d) requires the executive clinical director of MSOP to prepare a treatment progress report at the time of each reexamination. Lists the factors to be addressed in the progress report.

Paragraph (e) requires that examiners and the executive clinical director have reasonable access to the person for purposes of reexamination and to the person's treatment and health care records.

Paragraph (f) instructs the commissioner to submit a biennial report consisting of the reexamination report and treatment progress report to the judicial appeal panel. Lists the individuals who must receive a copy of the annual report.

Paragraph (g) waives the report requirements during a period of incarceration if a committed person is incarcerated for a new criminal charge or conviction.

Paragraph (h) provides that failure to complete or file any required report does not affect the validity of the person's continued commitment.

6 Evaluation unit for biennial reviews. Amends § 253B.185, by adding subd. 9b. Directs the state court administrator to create an evaluation unit to complete the periodic reviews required in section 5. Requires the Department of Human Services to reimburse the court for the cost of operating the evaluation unit, but the evaluation unit must remain independent of the department.

7 Victim notification of petition and release; right to submit statement. Amends § 253B.185, subd. 10. Strikes the requirement that the commissioner provide notice to victims prior to granting a civilly committed sex offender a pass. Replaces references to "special review board" with "judicial appeal panel."

8 Transfer. Amends § 253B.185, subd. 11. Strikes a reference to the "special review board."

9 Transfer; voluntary readmission to a secure facility. Amends § 253B.185, subd. 11a. Replaces references to the "special review board" with "judicial appeal panel."

10 Transfer; revocation. Amends § 253B.185, subd. 11b. Replaces references to the "special review board" with "judicial appeal panel."

11 Provisional discharge. Amends § 253B.185, subd. 12. Strikes a reference to the "special review board."

Section

- 12** **Provisional discharge; review.** Amends § 253B.185, subd. 14. Replaces a reference to the “special review board” with “judicial appeal panel.”
- 13** **Provisional discharge; voluntary readmission.** Amends § 253B.185, subd. 14a. Replaces references to the “special review board” with “judicial appeal panel.”
- 14** **Provisional discharge; revocation.** Amends § 253B.185, subd. 15. Replaces a reference to the “special review board” with “judicial appeal panel.”
- 15** **Appeal.** Amends § 253B.185, subd. 17. Replaces references to the “special review board” with “judicial appeal panel.”
- 16** **Discharge.** Amends § 253B.185, subd. 18. Strikes references to the “special review board.”
- 17** **Petition; hearing.** Amends § 253B.19, subd. 2. Repeals paragraph (b) which authorized interested parties to appeal a decision of the special review board to the judicial appeal panel. The language is not needed if the automatic biennial review procedures proposed in this bill are adopted. Makes other conforming changes.
- 18** **Receipt of biennial report.** Amends § 253B.19, by adding subd. 2a.
- Paragraph (a) establishes timelines for parties to submit responses to biennial reports.
- Paragraph (b) grants the appeal panel 60 days to determine whether to schedule a hearing on a biennial report. Establishes a rebuttable presumption that a hearing will be held.
- Paragraph (c) establishes guidelines for administration of the hearings under this subdivision.
- Paragraph (d) specifies who is covered by this subdivision and victim notification. Declares that hearings under this subdivision are considered commitment proceedings for purposes of section 8.01.
- 19** **Decision.** Amends § 253B.19, by adding subd. 3. Adds a cross-reference to the new subdivision added to section 253B.19 in section 18.
- 20** **Acts prohibited.** Amends § 609.485, subd. 2. Adds escaping from strict and intensive supervision treatment to the list of acts that constitute felony escape.
- 21** **Revisor’s instruction.** Directs the revisor to make technical changes to statutes to reflect enactment of this bill.
- 22** **Repealer.** Repeals § 253B.185, subd. 9. Eliminates language allowing a civilly committed person to petition for a reduction in custody. This provision would not be necessary if the automatic biennial review provisions contained in this bill are enacted.
- 23** **Effective date.** Establishes effective dates for the various provisions of the bill.