

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 3257

February 20, 2008

Authored by Loeffler, Hilstrom, Mullery, Walker and Eastlund

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

1.1 A bill for an act
1.2 relating to civil commitment; allowing persons facing civil commitment as
1.3 sexually dangerous persons or sexual psychopathic personalities to choose to
1.4 be confined in correctional facilities while the petition is being adjudicated;
1.5 addressing the cost of care for persons facing civil commitment; addressing
1.6 access to certain data by county attorneys on persons facing civil commitment;
1.7 amending Minnesota Statutes 2006, sections 246.51, by adding a subdivision;
1.8 253B.045, subdivisions 1, 2, by adding a subdivision; Minnesota Statutes 2007
1.9 Supplement, section 253B.185, subdivision 1b.

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

1.11 Section 1. Minnesota Statutes 2006, section 246.51, is amended by adding a
1.12 subdivision to read:

1.13 Subd. 1a. **Cost of care for certain patients.** The cost of care for persons under a
1.14 judicial hold order under section 253B.07, subdivision 2b, who are being petitioned for
1.15 commitment under section 253B.185 shall be treated as a separate treatment program. The
1.16 charge for services and cost of care shall be determined separately from the charge for
1.17 services and cost of care calculated for persons committed under section 253B.185.

1.18 **EFFECTIVE DATE.** This section is effective July 1, 2008.

1.19 Sec. 2. Minnesota Statutes 2006, section 253B.045, subdivision 1, is amended to read:

1.20 Subdivision 1. **Restriction.** Except when ordered by the court pursuant to a finding
1.21 of necessity to protect the life of the proposed patient or others or as provided under
1.22 subdivision 1a, no person subject to the provisions of this chapter shall be confined in a
1.23 jail or correctional institution, except pursuant to chapter 242 or 244.

1.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.1 Sec. 3. Minnesota Statutes 2006, section 253B.045, is amended by adding a
2.2 subdivision to read:

2.3 Subd. 1a. **Exception.** When a person who is being petitioned for commitment under
2.4 section 253B.185 as a sexually dangerous person or person with a sexual psychopathic
2.5 personality is placed under a judicial hold order under section 253B.07, subdivision 2b,
2.6 the person may elect to be confined to a Department of Corrections facility or a county
2.7 correctional facility for the duration of the hold order.

2.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.9 Sec. 4. Minnesota Statutes 2006, section 253B.045, subdivision 2, is amended to read:

2.10 Subd. 2. **Facilities.** Each county or a group of counties shall maintain or provide by
2.11 contract a facility for confinement of persons held temporarily for observation, evaluation,
2.12 diagnosis, treatment, and care. When the temporary confinement is provided at a regional
2.13 treatment center, the commissioner shall charge the county of financial responsibility for
2.14 the costs of confinement of persons hospitalized under section 253B.05, subdivisions 1
2.15 and 2, and section 253B.07, subdivision 2b, except that the commissioner shall bill the
2.16 responsible health plan first. If the person has health plan coverage, but the hospitalization
2.17 does not meet the criteria in subdivision 6 or section 62M.07, 62Q.53, or 62Q.535, the
2.18 county is responsible. "County of financial responsibility" means the county in which
2.19 the person resides at the time of confinement or, if the person has no residence in this
2.20 state, the county which initiated the confinement. The charge shall be based on the
2.21 commissioner's determination of the cost of care pursuant to section 246.50, ~~subdivision~~
2.22 subdivisions 5 and 5a. When there is a dispute as to which county is the county of
2.23 financial responsibility, the county charged for the costs of confinement shall pay for them
2.24 pending final determination of the dispute over financial responsibility. Disputes about the
2.25 county of financial responsibility shall be submitted to the commissioner to be settled in
2.26 the manner prescribed in section 256G.09.

2.27 **EFFECTIVE DATE.** This section is effective July 1, 2008.

2.28 Sec. 5. Minnesota Statutes 2007 Supplement, section 253B.185, subdivision 1b,
2.29 is amended to read:

2.30 Subd. 1b. **County attorney access to data.** (a) Notwithstanding sections 144.291
2.31 to 144.298; 245.467, subdivision 6; 245.4876, subdivision 7; 260B.171; 260B.235,
2.32 subdivision 8; 260C.171; and 609.749, subdivision 6, or any provision of chapter 13
2.33 or other state law, prior to filing a petition for commitment as a sexual psychopathic

3.1 personality or as a sexually dangerous person, and upon notice to the proposed patient,
3.2 the county attorney or the county attorney's designee may move the court for an order
3.3 granting access to any records or data, to the extent it relates to the proposed patient, for
3.4 the purpose of determining whether good cause exists to file a petition and, if a petition
3.5 is filed, to support the allegations set forth in the petition.

3.6 The court may grant the motion if: (1) the Department of Corrections refers the case
3.7 for commitment as a sexual psychopathic personality or a sexually dangerous person; or
3.8 (2) upon a showing that the requested category of data or records may be relevant to
3.9 the determination by the county attorney or designee. The court shall decide a motion
3.10 under this subdivision within 48 hours after a hearing on the motion. Notice to the
3.11 proposed patient need not be given upon a showing that such notice may result in harm or
3.12 harassment of interested persons or potential witnesses.

3.13 (b) The county attorney may obtain access to the data specified under paragraph (a)
3.14 without a court order or notice to the proposed patient if the data are maintained by the
3.15 Department of Corrections or a probation or parole authority or agency.

3.16 (c) Data collected pursuant to this subdivision shall retain their original status and,
3.17 if not public, are inadmissible in any court proceeding unrelated to civil commitment,
3.18 unless otherwise permitted.

3.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.