

This Document can be made available  
in alternative formats upon request

State of Minnesota  
**HOUSE OF REPRESENTATIVES**

**EIGHTY-SIXTH  
SESSION**

**HOUSE FILE No. 3743**

March 25, 2010

Authored by Otremba

The bill was read for the first time and referred to the Committee on Health Care and Human Services Policy and Oversight

1.1 A bill for an act  
1.2 relating to mental health; requiring admission for treatment under certain  
1.3 circumstances; amending Minnesota Statutes 2008, section 253B.04, subdivision  
1.4 1.

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

1.6 Section 1. Minnesota Statutes 2008, section 253B.04, subdivision 1, is amended to read:

1.7 Subdivision 1. **Voluntary admission and treatment.** (a) Voluntary admission is  
1.8 preferred over involuntary commitment and treatment. Any person 16 years of age or older  
1.9 may request to be admitted to a treatment facility as a voluntary patient for observation,  
1.10 evaluation, diagnosis, care and treatment without making formal written application. Any  
1.11 person under the age of 16 years may be admitted as a patient with the consent of a parent  
1.12 or legal guardian if it is determined by independent examination that there is reasonable  
1.13 evidence that (1) the proposed patient has a mental illness, or is developmentally disabled  
1.14 or chemically dependent; and (2) the proposed patient is suitable for treatment. The head  
1.15 of the treatment facility shall not arbitrarily refuse any person seeking admission as a  
1.16 voluntary patient. In making decisions regarding admissions, the facility shall use clinical  
1.17 admission criteria consistent with the current applicable inpatient admission standards  
1.18 established by the American Psychiatric Association or the American Academy of Child  
1.19 and Adolescent Psychiatry. These criteria must be no more restrictive than, and must be  
1.20 consistent with, the requirements of section 62Q.53. The facility may not refuse to admit a  
1.21 person voluntarily solely because the person does not meet the criteria for involuntary  
1.22 holds under section 253B.05 or the definition of mental illness under section 253B.02,  
1.23 subdivision 13. The treatment facility must admit a person for treatment if the person  
1.24 requests admission and meets the clinical admission criteria. If the facility does not have

2.1 capacity to admit the person for treatment, the facility must arrange to have the person  
2.2 safely transported for admission to the closest facility with an available bed.

2.3 (b) In addition to the consent provisions of paragraph (a), a person who is 16 or  
2.4 17 years of age who refuses to consent personally to admission may be admitted as a  
2.5 patient for mental illness or chemical dependency treatment with the consent of a parent or  
2.6 legal guardian if it is determined by an independent examination that there is reasonable  
2.7 evidence that the proposed patient is chemically dependent or has a mental illness and is  
2.8 suitable for treatment. The person conducting the examination shall notify the proposed  
2.9 patient and the parent or legal guardian of this determination.

2.10 (c) A person who is voluntarily participating in treatment for a mental illness is not  
2.11 subject to civil commitment under this chapter if the person:

2.12 (1) has given informed consent or, if lacking capacity, is a person for whom legally  
2.13 valid substitute consent has been given; and

2.14 (2) is participating in a medically appropriate course of treatment, including  
2.15 clinically appropriate and lawful use of neuroleptic medication and electroconvulsive  
2.16 therapy. The limitation on commitment in this paragraph does not apply if, based on  
2.17 clinical assessment, the court finds that it is unlikely that the person will remain in and  
2.18 cooperate with a medically appropriate course of treatment absent commitment and the  
2.19 standards for commitment are otherwise met. This paragraph does not apply to a person  
2.20 for whom commitment proceedings are initiated pursuant to rule 20.01 or 20.02 of the  
2.21 Rules of Criminal Procedure, or a person found by the court to meet the requirements  
2.22 under section 253B.02, subdivision 17.

2.23 Legally valid substitute consent may be provided by a proxy under a health care  
2.24 directive, a guardian or conservator with authority to consent to mental health treatment,  
2.25 or consent to admission under subdivision 1a or 1b.