

OCEAN

House File Number 1139

During the eighty-eighth legislative session (2013) Representative Tina Liebling and Senator Jim Abeler authored H. F. No. 1139. It seems the bill was tabled in March of 2013 and there was no further activity. OCEAN copy/pasted the bill from a PDF to a Microsoft Word Document. Suggestions by OCEAN Members are found in dark highlights. A highlighted "x" represents something has been deleted, but not replaced with new text. It seems that the authors of this House File have made the assumption that anyone being petitioned for civil commitment must be a convicted sex offender. However, there is no law that states a person must be a convicted sex offender to be civilly committed. It seems the authors of this bill made an attempt to provide a way for civilly committed men new avenues for less restrictive alternatives. We hope that the passage of this bill into law will help provide a Clear Path Home

Daniel A. Wilson and Russell J. Hatton

2/7/2021



State of Minnesota
HOUSE OF REPRESENTATIVES

H. F. No. 1139

EIGHTY-EIGHTH SESSION

03/04/2013 Authored by Lieblich and Abeler
The bill was read for the first time and referred to the Committee on Health and Human Services Policy
03/18/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Judiciary Finance and Policy

- 1.1 A bill for an act
- 1.2 relating to human services; providing for a prevention of sexual violence working
- 1.3 group; modifying provisions related to the ~~Minnesota Sexual Violence Prevention Act~~;
- 1.4 providing for sexual violence prevention demonstration grants; requiring a
- 1.5 public education campaign; modifying the Civil Commitment Act, providing
- 1.6 for a report; appropriating money; amending Minnesota Statutes 2012, section
- 1.7 253B.185, subdivision 1, by adding subdivisions.

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

1.9 ARTICLE 1

1.10 SEXUAL VIOLENCE PREVENTION

1.11 Section 1. TITLE.

1.12 This act shall be known as the "Sexual Violence Prevention and Civil Commitment

1.13 Reform Act of 2013."

1.14 Sec. 2. PREVENTION OF SEXUAL VIOLENCE WORKING GROUP.

1.15 Subdivision 1. Creation; duties; recommendations. (a) The commissioner of

1.16 health shall convene a prevention of sexual violence working group. At a minimum,

1.17 the working group shall:

1.18 (1) maintain an inventory of existing state programs and services that have an impact

1.19 on sexual violence prevention;

1.20 (2) establish goals and strategic objectives for the prevention of sexual violence; and

1.21 (3) coordinate implementation of existing state programs and services to achieve

1.22 these goals and objectives.

1.23 (b) The working group shall base its actions and recommendations on:

1.24 (1) evidence-informed research and professional best practices;

Article 1 Sec. 2.

2.1 (2) consultation with professional associations, community associations, and

- 2.2 providers, including, but not limited to, those with experience in public health, health,
2.3 criminal justice, judiciary, corrections, or victim services; and
2.4 (3) the Minnesota Department of Health Five-Year Sexual Violence Prevention Plan.
2.5 The working group may give priority consideration to the immediate and long-term
2.6 benefits of reducing the impact of sexual violence on children and youth.
2.7 (c) The commissioner must convene the first meeting of this working group by
2.8 August 1, [REDACTED]. The working group is subject to Minnesota Statutes, section 15.059.
2.9 Subd. 2. **Membership.** The working group consists of the following members
2.10 or their designees:
2.11 (1) the commissioner of health;
2.12 (2) the commissioner of human services;
2.13 (3) the commissioner of public safety;
2.14 (4) the commissioner of corrections;
2.15 (5) the commissioner of education;
2.16 (6) the commissioner of human rights;
2.17 (7) the commissioner of administration; and
2.18 (8) representatives from other state agencies or commissions as designated by the
2.19 governor.
2.20 Subd. 3. **Consultation.** The working group may consult with professional
2.21 associations, community associations, nonprofit organizations, providers, advocates,
2.22 and members of the legislature. These consultations may include, but are not limited to,
2.23 advisory committees, community conferences, workshops, and forums.
2.24 Subd. 4. **Reports.** (a) By February 1, [REDACTED], the working group shall submit an
2.25 initial report, in coordination with the governor, to summarize its key deliberations and
2.26 initiatives to the chairs and ranking minority members of the house of representatives and
2.27 senate committees with jurisdiction over public safety, public health, judiciary, human
2.28 services, education, and state governmental operations.
2.29 (b) The working group may propose recommendations to the governor for new
2.30 state policies, programs, or services to advance the goals and objectives identified under
2.31 subdivision 1, and comment on proposals for new state policies, programs, or services
2.32 initiated by the legislature or state agencies or commissions.
2.33 Subd. 5. **Expiration.** This working group expires June 30, [REDACTED].
2.34 Sec. 3. **SEXUAL VIOLENCE PREVENTION DEMONSTRATION**
2.35 **PARTNERSHIP GRANTS.**
 Article 1 Sec. 3.
3.1 Subdivision 1. **Definition.** As used in this section, "community sexual violence
3.2 prevention partnership" is an alliance of local governments, colleges and universities,
3.3 school districts, and nonprofit, civic, and business groups organized for the purpose of

Comment [Pete1]: Why not any representative patient from the MSOP?

- 3.4 sexual violence prevention, including, but not limited to, entities with experience in public
3.5 health, health, criminal justice, judiciary, corrections, or victim services.
3.6 Subd. 2. **Community sexual violence prevention partnership demonstration**
3.7 grants. (a) The commissioner of health shall award competitive grants to community
3.8 health boards established pursuant to Minnesota Statutes, section 145A.09, and tribal
3.9 governments to fund partnerships. The commissioner shall award up to five grants per
3.10 year, taking into account geographic balance.
3.11 (b) Grants may be used for the following activities:
3.12 (1) improving the coordination of existing programs, services, and activities that
3.13 support sexual violence prevention;
3.14 (2) initiating new programs, services, and activities that support sexual violence
3.15 prevention;
3.16 (3) supporting outreach, education, and technical assistance for other localities
3.17 seeking to undertake similar programs, services, and activities; and
3.18 (4) supporting the reporting and evaluation of sexual violence.
3.19 Grant recipients shall give priority consideration to the immediate and long-term benefits
3.20 of reducing the impact of sexual violence on children and youth.
3.21 (c) To receive a grant under this section, community health boards and tribal
3.22 governments must:
3.23 (1) submit proposals to the commissioner;
3.24 (2) collaborate with one or more local nonprofit or government agencies that receive
3.25 sexual assault advocate grants from the Department of Public Safety Office of Justice
3.26 Programs;
3.27 (3) demonstrate that grant activities are:
3.28 (i) based on evidence informed by research and professional best practices for sexual
3.29 violence prevention;
3.30 (ii) based on assessment of community sexual violence prevention need and capacity;
3.31 (iii) based on community input; and
3.32 (iv) consistent with the Department of Health Five-Year Sexual Violence Prevention
3.33 Plan; and
3.34 (4) provide a local match of ten percent of the total funding allocation.
3.35 The local match may include grants or donations from federal or private entities expressly
3.36 for the purposes of this grant.
Article 1 Sec. 3.
4.1 (d) The commissioner may award grants under this section to a community health
4.2 board or tribal government for a term of up to, but not to exceed, 60 consecutive months.
4.3 based upon the availability of state or federal funds to support the purposes of these grants.
4.4 Subd. 3. **Technical assistance.** The commissioner shall contract with private or

4.5 nonprofit providers to deliver technical assistance services to grant recipients.

4.6 Sec. 4. **APPROPRIATIONS.**

4.7 (a) \$100,000 each year is appropriated to the commissioner of health for working

4.8 group administration and activities. The commissioner may solicit and accept contributions

4.9 from government or private entities to hire staff or consultants to fund the working group.

4.10 (b) \$750,000 each year is appropriated to the commissioner of health to fund

4.11 community sexual violence prevention partnership demonstration grants. The

4.12 commissioner may use up to six percent of this appropriation for administration and up to

4.13 six percent of this appropriation for technical assistance.

4.14 **ARTICLE 2**

4.15 **STRICT AND INTENSIVE SUPERVISION AND TREATMENT AND**

4.16 **PUBLIC EDUCATION CAMPAIGN**

4.17 Section 1. **STRICT AND INTENSIVE SUPERVISION AND TREATMENT.**

4.18 The commissioner of human services shall ensure there are an adequate number

4.19 of facilities that provide strict and intensive supervision and treatment for individuals

4.20 civilly committed under Minnesota Statutes, section 253B.185, who are court-ordered

4.21 to strict and intensive supervision and treatment placement. The facilities must meet

4.22 public safety requirements as specified by the commissioners of human services, public

4.23 safety, and corrections, and ensure the safety of the public while meeting the treatment

4.24 needs of the civilly committed population. The commissioner shall use the information

4.25 resulting from the January 2013 request for information to determine existing capacity for

4.26 a range of options for facilities, and treatment that is effective and appropriate and allows

4.27 progression. If the capacity is insufficient, the commissioner shall develop or contract to

4.28 provide additional facilities, services, and treatment to meet the need.

4.29 Sec. 2. **EDUCATION RELATING TO ~~X~~ CIVIL COMMITMENT**

4.30 **PROCEDURAL CHANGES.**

4.31 The commissioner of human services shall develop and provide education to judges

4.32 and court staff, county attorneys and ~~X~~ lawyers likely to represent civilly committed clients, client advocacy organizations, and court-appointed examiners about

Article 2 Sec. 2.

5.1 the civil commitment procedural changes under this article and the strict and intensive

5.2 supervision and treatment under section 1.

5.3 Sec. 3. **PUBLIC EDUCATION CAMPAIGN.**

5.4 The commissioner of human services shall develop a public education campaign

5.5 informing the general public about the 2012 class action lawsuit (*Karsjens v. Jesson*) relating to the Minnesota

5.6 mental health program (MSOP), the court's rulings, including the order from the court

5.7 establishing the Sex Offender Civil Commitment Advisory Task Force and the work of

5.8 the task force, and the response by the legislature resulting in the legislation in this bill.

5.9 The public education campaign must be a statewide effort to educate Minnesotans on

5.10 the process of civilly committing ~~§ 253B.07~~ and the emerging policy in response to

5.11 the court's decisions, and related issues.

5.12 **ARTICLE 3**

5.13 **CIVIL COMMITMENT MODIFICATIONS**

5.14 Section 1. Minnesota Statutes 2012, section 253B.185, subdivision 1, is amended to

5.15 read:

5.16 Subdivision 1. **Commitment generally.** (a) Except as otherwise provided in this

5.17 section, the provisions of this chapter pertaining to persons who are mentally ill and

5.18 dangerous to the public apply with like force and effect to persons who are alleged or

5.19 found to be sexually dangerous persons or persons with a sexual psychopathic personality.

5.20 For purposes of this section, "sexual psychopathic personality" includes any individual

5.21 committed as a "psychopathic personality" under Minnesota Statutes 1992, section 526.10.

5.22 (b) Before commitment proceedings are instituted, the facts shall first be submitted

5.23 to the county attorney, who, if satisfied that good cause exists, will prepare the petition.

5.24 The county attorney may request a prepetition screening report. The petition is to be

5.25 executed by a person having knowledge of the facts and filed with the district court of the

5.26 county of financial responsibility or the county where the patient is present. If the patient

5.27 is in the custody of the commissioner of corrections, the petition may be filed in the county

5.28 where the conviction for which the person is incarcerated was entered.

5.29 (c) Upon the filing of a petition alleging that a proposed patient is a sexually

5.30 dangerous person or is a person with a sexual psychopathic personality, the court shall

5.31 hear the petition as provided in ~~section 253B.18, except that section 253B.18, subdivisions~~

~~5.32 2 and 3, shall not apply sections 253B.07 and 253B.08.~~

Article 3 Section 1.

6.1 If the court finds by clear and convincing evidence that the proposed patient is a sexually

6.2 dangerous person or is a person with a sexual psychopathic personality, the court shall

6.3 commit the person to the commissioner to place in a secure treatment facility for

6.4 evaluation and proposed disposition.

6.5 (d) ~~In commitments under this section, the court shall commit the patient to a secure~~

~~6.6 treatment facility unless the patient establishes by clear and convincing evidence that a~~

6.7 less restrictive treatment program is available that is consistent with the patient's treatment
 6.8 needs and the requirements of public safety. Within 60 days following commitment and
 6.9 receipt of the patient, a [REDACTED] designated by the commissioner
 6.10 shall evaluate the patient, consider possible dispositions, and file a written disposition
 6.11 report with the committing court. If the person is in the custody of the commissioner of
 6.12 corrections when the commitment is ordered under paragraph (c), the written disposition
 6.13 report must be filed no later than 60 days after the person is admitted to the secure
 6.14 treatment facility. The commissioner may request that the court grant an extension of the
 6.15 60-day deadline, which may be granted for good cause after opportunity for objection by
 6.16 the patient and the county attorney. The disposition report shall recommend whether
 6.17 the person should be placed on strict and intensive supervision and treatment or in a
 6.18 secure treatment facility. If the recommendation is for placement on strict and intensive
 6.19 supervision and treatment, the report shall specifically describe the conditions that the
 6.20 program determines would be best suited to meet the person's treatment needs and the
 6.21 requirements of public safety. Within 30 days after receiving the disposition report, unless
 6.22 otherwise agreed by the parties, the court shall hold a hearing to make a final determination
 6.23 as to the appropriate disposition of the case. If the disposition report recommends
 6.24 placement on strict and intensive supervision and treatment, either party or the court may
 6.25 request the court examiners to address the sufficiency and conditions of the plan.
 6.26 (e) After a final determination that a patient is a sexually dangerous person or sexual
 6.27 psychopathic personality, the court shall order commitment for an indeterminate period of
 6.28 time and the patient shall be transferred, provisionally discharged, or discharged, only as
 6.29 provided in this section.
 6.30 Sec. 2. Minnesota Statutes 2012, section 253B.185, is amended by adding a
 6.31 subdivision to read:
 6.32 Subd. 1c. **Strict and intensive supervision and treatment.** (a) If a specific plan
 6.33 for strict and intensive supervision and treatment is proposed, the court shall commit the
 6.34 person to strict and intensive supervision and treatment unless the petitioner proves by a
 Article 3 Sec. 2. 6

Comment [Pete2]: there is no go home provision. The only options are still intense supervision. What about those that have no disorder, or a disorder that is in a remissive state?

7.1 preponderance of the evidence that the plan is not sufficient to meet the person's treatment
 7.2 needs or the requirements of public safety.
 7.3 (b) If the court finds that strict and intensive supervision and treatment is appropriate,
 7.4 the court shall notify the [REDACTED], which must prepare a plan
 7.5 that identifies the treatment and services for the patient including recommendations
 7.6 regarding the conditions of strict and intensive supervision and treatment. The plan must
 7.7 be presented to the court for its approval within 60 days after the court finds that strict

Comment [Pete3]: All evidence should be at least Clear and Convincing.

7.8 and intensive supervision and treatment is appropriate, unless the program or the patient
7.9 request additional time to develop the plan and the court determines there is good cause to
7.10 allow an extension for a specified period.
7.11 (c) An order for strict and intensive supervision and treatment places the patient
7.12 in the custody and control of the commissioner of human services for the provision of
7.13 treatment, services, and supervision under the [REDACTED] and the
7.14 patient is subject to the conditions set by the court and the program, which must ensure the
7.15 safety of the public while meeting the treatment needs of the civilly committed patient.
7.16 (d) If the program determines that a patient under this subdivision has violated a
7.17 condition under paragraph (c) or is exhibiting behavior that may be dangerous to self or
7.18 others or that the interests of public safety require that strict and intensive supervision
7.19 and treatment placement be revoked, the program may request the court to issue an
7.20 emergency ex parte order directing a law enforcement agency to take the person into
7.21 custody and transport the person to a Department of Corrections or county correctional
7.22 or detention facility or a secure treatment facility. The county attorney or the program
7.23 shall submit a statement showing probable cause for the detention and submit a petition
7.24 to revoke the strict and intensive supervision and treatment order within 48 hours after
7.25 the detention. The court shall hear the petition within 30 days, unless the hearing or
7.26 deadline is waived by the patient. If the court determines that a condition of the strict and
7.27 intensive supervision and treatment placement has been violated or that the safety of the
7.28 patient or others requires that the strict and intensive supervision and treatment placement
7.29 be revoked, the court shall revoke the strict and intensive supervision and treatment
7.30 placement and order an appropriate commitment placement under this section.
7.31 (e) This subdivision does not affect or replace any applicable registration
7.32 requirements under section 243.166 or notice requirements under sections 244.052 and
7.33 244.053.
 7.34 Sec. 3. Minnesota Statutes 2012, section 253B.185, is amended by adding a
 7.35 subdivision to read:
 Article 3 Sec. 3.

8.1 **Subd. 9a. Annual review of placement level.** (a) The commissioner shall appoint
 8.2 an examiner to conduct a reexamination of the mental condition of a person committed
 8.3 under this section within 12 months after the date of the initial commitment order and
 8.4 again thereafter at least once each 12 months to determine whether the person has made
 8.5 sufficient progress for the judicial appeal panel to consider whether the person's placement
 8.6 should be modified. At the time of a reexamination under this section, the person who has
 8.7 been committed may retain or have the commissioner appoint an examiner.
 8.8 (b) Any examiner conducting a reexamination under paragraph (a) shall prepare

Comment [WU4]:

This is concerning. Is it constitutional to send someone to the DOC for anything other than a criminal conviction? – Daniel A. Wilson
2/5/21

Comment [Pete5]:

For purposes of custody reduction, for the previous 12 month period only, if the licensed accredited forensic psychiatrist/psychologist determines the patient has ongoing treatment needs he would follow the traditional discharge process.

If, however, the licensed accredited forensic psychiatrist/psychologist determines the patient has no qualifying disorder that makes him likely having a volitional impairment rendering him dangerous to himself or others, the Commissioner shall adopt the recommendation of the expert moving the patient to a provisional discharge pursuant to 253D.30. The expert would not be immune from liability should he/she deviate from the standard diagnostic principles and applicable standards according to the profession.

The Commissioner shall provide appropriate facilities to accomplish a six months stay preferably in the patients committing county in order for the patient to make an acceptable adjustment to open society. The patient shall be subject to the rules and provisions set forth by the commissioner and administrator at the facility. If the patient fails to follow the rules he would be transferred back to MSOP.

8.9 a written report of the reexamination no later than 30 days after the date of the
8.10 reexamination. The report must examine and assess the patient's:
8.11 (1) progress toward treatment goals;
8.12 (2) risk to the public; and
8.13 (3) suitability for an alternative placement that balances the patient's continued
8.14 treatment needs and public safety. The examiner shall provide a copy of the report to the
8.15 county attorneys of the committing county and the county of financial responsibility, the
8.16 commissioner, and the judicial appeal panel.
~~8.17 (c) Notwithstanding paragraph (a), the court that committed a person under this~~
8.18 section may order a reexamination of the person at any time during the period in which the
8.19 person is subject to the commitment order. The reexamination shall then be conducted
8.20 pursuant to this subdivision.
8.21 (d) At any reexamination under paragraph (a), the treating professional shall prepare
8.22 a treatment progress report. The treating professional shall provide a copy of the treatment
8.23 progress report to the commissioner. The treatment progress report shall consider all of
8.24 the following:
8.25 (1) the specific factors associated with the person's risk for committing another
8.26 sexually violent offense;
8.27 (2) whether the person has made significant progress in treatment or has refused
8.28 treatment;
8.29 (3) the ongoing treatment needs of the person; and
8.30 (4) any specialized needs or conditions associated with the person that must be
8.31 considered in future treatment planning.
8.32 (e) Any examiners under paragraph (a) and treating professionals under paragraph
8.33 (d) shall have reasonable access to the person for purposes of reexamination, to the
8.34 person's past and present treatment records, and to the person's patient health care records.
8.35 (f) The commissioner shall submit an annual report comprised of the reexamination
8.36 report under paragraph (a) and the treatment progress report under paragraph (d) to the
 Article 3 Sec. 3. |

9.1 judicial appeal panel. A copy of the annual report shall be placed in the person's treatment
9.2 records. The commissioner shall provide a copy of the annual report to the patient and
9.3 the county attorneys of the committing county and the county of financial responsibility.
9.4 The panel shall provide a copy of the annual report to the patient's attorney as soon as the
9.5 attorney is retained or appointed.
9.6 (g) If a person committed under this section is incarcerated for a new criminal
9.7 charge or conviction, any reporting requirement under paragraphs (a), (d), or (f) does
9.8 not apply during the incarceration period. A court may order a reexamination of the
9.9 person under paragraph (c) if the court finds reexamination to be necessary. The required

Comment [Pete6]: All of this assumes treatment is necessary or appropriate. What about the hundreds who do not need any intervention at all?

9.10 reports shall be due 12 months after the person is returned to the custody and control of

9.11 the commissioner of human services under the ~~Minnesota Sentencing and Guidelines Act~~

9.12 (h) Failure to complete or file any required report within the specified time period

9.13 does not affect the validity of the person's continuing commitment.

Article 3 Sec. 3.

APPENDIX

Article locations in H1139-1

ARTICLE 1 SEXUAL VIOLENCE PREVENTION Page.Ln 1.9
ARTICLE 2
STRICT AND INTENSIVE SUPERVISION AND TREATMENT
AND PUBLIC EDUCATION CAMPAIGN Page.Ln 4.14
ARTICLE 3 CIVIL COMMITMENT MODIFICATIONS Page.Ln 5.12