

# House Research Act Summary

**CHAPTER:** 300

**SESSION:** 2010 Regular Session

**TOPIC:** DHS Sex Offender Treatment

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## Overview

This act modifies and clarifies commitment statutes related to individuals committed as sexually dangerous persons or as individuals with a sexual psychopathic personality. It changes the term “client” to “civilly committed sex offender” throughout the sex offender program chapter.

### Section

- 1**      **Civilly committed sex offender.** Amends § 246B.01, subd. 1a. Changes terminology used in the definition section of this statute. Rather than refer to a resident at the sex offender program as a “client” changes this reference to “civilly committed sex offender.” Strikes language that would include an individual who is subject to a hold order as sexually dangerous person prior to commitment.
- 2**      **Civilly committed sex offender’s county.** Amends § 246B.01, subd. 1b. Changes terminology from “client” to “civilly committed sex offender.”
- 3**      **Community preparation services.** Amends § 246B.01, subd. 2a. Changes terminology from “client” to “civilly committed sex offender.”
- 4**      **Local social services agency.** Amends § 246B.01, subd. 2d. Changes the word “client” to “civilly committed sex offender.”
- 5**      **Establishment of Minnesota sex offender program.** Amends § 246B.02. Changes the word “clients” to “civilly committed sex offenders.”
- 6**      **Minnesota sex offender program evaluation.** Amends § 246B.03, subd. 2. Changes the word “clients” to “civilly committed sex offenders.”

- 7 **Civilly committed sex offender grievance resolution process.** Amends § 246B.03, subd. 3. Changes the word “clients” to “civilly committed sex offenders.”
- 8 **Access to data.** Amends § 246B.04, subd. 3. Strikes “Minnesota sex offender clients” and inserts “civilly committed sex offenders.”
- 9 **Vocational work program option.** Amends § 246B.05, subd. 1. Makes a technical change and changes the term “clients” to “civilly committed sex offenders.”
- 10 **Establishment; purpose.** Amends § 246B.06, subd. 1. Changes the terms “clients” to “civilly committed sex offenders” and “patients” to “individuals.”
- 11 **Wages.** Amends § 246B.06, subd. 6. Changes the term “clients” to “individuals.”
- 12 **Status of civilly committed sex offenders.** Amends § 246B.06, subd. 7. Changes the term “clients” to “civilly committed sex offenders.”
- 13 **Claims.** Amends § 246B.06, subd. 8. Changes the terms “client” to “civilly committed sex offender” and “client” to “individual.”
- 14 **Procedures.** Amends § 246B.07, subd. 1. Changes the word “clients” to “civilly committed sex offenders.”
- 15 **Rules.** Amends § 246B.07, subd. 2. Changes the term “client’s” to “civilly committed sex offender’s.”
- 16 **Payment for care; order; action.** Amends § 246B.08. Changes the word “client” to “civilly committed sex offender.”
- 17 **Claim against the estate of deceased civilly committed sex offender.** Amends § 246B.09. Changes the word “client” to “civilly committed sex offender” in all subdivisions of this section.
- 18 **Liability of county; reimbursement.** Amends § 246B.10. Changes the word “client” to “civilly committed sex offender.”
- 19 **Emergency hold.** Amends §253B.05, subd. 1. Clarifies that an individual being held for emergency care and treatment cannot be held at a facility operated by the Minnesota sex offender program.
- 20 **Apprehend and hold orders.** Amends § 253B.07, subd. 2b. Provides that assignment of custody of an individual on a judicial hold under section 253B.185 is to the commissioner of human services who will determine the appropriate secure treatment facility for the individual.
- 21 **Transfer to voluntary status.** Amends § 253B.10, subd. 5. Excludes individuals committed as sexually dangerous or as a sexual psychopathic personality from being transferred to voluntary commitment status.
- 22 **Transfer of committed persons.** Amends § 253B.14. Excludes individuals committed as sexually dangerous or as a sexual psychopathic personality from the commissioner’s authority to transfer committed individuals from one regional treatment center to any other treatment facility.

- 23 **Provisional discharge.** Amends § 253B.15, subd. 1. Prohibits the head of a treatment facility from provisionally discharging a patient who has been committed as a sexually dangerous person or a sexual psychopathic personality.
- 24 **Release on pass; notification.** Amends §253B.18, subd. 4a. Adds that notification must be made to the county attorney in the location where the pass is to occur.
- 25 **Victim notification of petition and release; right to submit statement.** Amends §253B.18, subd. 5a. Clarifies that the victim notification provisions under this subdivision do not confer the same victim rights as those provided under the sex offender commitment statute, section 253B.185, subd. 10.
- 26 **Sexual psychopathic personality; sexually dangerous.** Amends §253B.185. Adds subdivisions 10 to 19.

**Subd. 1. Commitment generally.** Clarifies the definition of “sexual psychopathic personality.”

**Subd. 2. Transfer to correctional facility.** Updates a cross-reference.

**Subd. 6. Aftercare and case management.** This subdivision is stricken.

**Subd. 8. Petition and report required.** Strikes the requirement for the commissioner to issue an annual report to the chairs of the house and senate committees with jurisdiction over human services finance regarding compliance with this subdivision.

**Subd. 9. Petition for reduction in custody.** Updates a cross-reference to the victim notification subdivision contained in this statutory section.

**Subd. 10. Victim notification of petition and release; right to submit statement.** Paragraph (a) defines “crime,” “victim,” and “convicted” and “conviction.”

Paragraph (b) requires the county attorney filing the commitment petition to make a reasonable effort to notify the victim that a petition has been filed, and to notify the victim of the resolution of the petition.

Paragraph (c) requires the head of the treatment facility to make reasonable efforts to notify the victim before the committed person is temporarily or permanently released. Also requires the head of the treatment facility to notify the victim of the right to submit a written statement. Requires notice to be given, to the extent possible, at least 14 days before any special review board hearing or before determination on a pass plan. Instructs the commissioner to provide victim information to the judicial appeal panel, but requires such information to remain private as required by section 611A.06, subdivision 4.

Paragraph (d) provides that this subdivision applies only to victims who have requested notification by contacting the county attorney in the county where the criminal conviction occurred or where the civil commitment was filed or, following commitment, the head of the treatment facility. Requires a county attorney to forward this request to the commissioner of human services.

Paragraph (e) provides that rights granted under this section are in addition to the rights granted under section 611A.

**Subd. 11. Transfer.** Paragraph (a) provides that patients committed under this section shall not be transferred from a secure treatment facility unless the judicial appeal panel is satisfied the transfer is appropriate. Permits transfer to be made to other programs under the commissioner's control.

Paragraph (b) lists factors to be considered when deciding whether transfer is appropriate.

**Subd. 12. Provisional discharge.** Provides that patients committed under this section shall not be provisionally discharged unless the judicial appeal panel is satisfied the patient is capable of making an acceptable adjustment to open society. Lists the factors to be considered in determining whether a provisional discharge should be recommended.

**Subd. 13. Provisional discharge plan.** Requires the plan to be developed, implemented, and monitored by the head of the treatment facility in conjunction with the patient and other appropriate persons. Requires a quarterly review of the plan with the patient. Requires the head of the facility to submit a written report to the designated agency concerning the patient's status and compliance with the plan.

**Subd. 14. Provisional discharge; review.** Provides that a provisional discharge continues unless the patient requests and is granted a change in conditions, or the patient petitions the special review board for a full discharge and the discharge is granted by the judicial appeal panel.

**Subd. 15. Provisional discharge; revocation.** Paragraph (a) lists the conditions under which the head of the treatment facility can revoke a provisional discharge.

Paragraph (b) grants the head of the treatment facility the authority to revoke a provisional discharge and requires a report to be issued within seven days after the patient is returned to the treatment facility regarding the reasons the discharge was revoked.

Paragraph (c) requires that the patient be given a copy of the report and informed, orally and in writing, of the patient's rights under this section.

Paragraph (d) states that an individual whose provisional discharge has been revoked must successfully re-petition prior to being returned to provisional discharge.

**Subd. 16. Return of absent patient.** Permits the head of the treatment facility to request the assistance of law enforcement to return a patient to the facility if the patient is absent without authorization. Requires the commissioner to pay the costs for returning the patient to the facility.

**Subd. 17. Appeal.** Permits a patient aggrieved by a revocation decision or any interested person to petition within seven days after receipt of the revocation report for a review of the revocation. Provides that the matter is to be scheduled within 30 days. Requires the special review board to review the matter and make a recommendation to the judicial appeal panel. Permits the review board to recommend

a new provisional discharge.

**Subd. 18. Discharge.** Permits a patient committed under this section to be discharged only if it appears to the satisfaction of the judicial appeal panel that the patient is able to make an acceptable adjustment to open society, is no longer dangerous to the public, and is no longer in need of inpatient treatment and supervision.

**Subd. 19. Aftercare services.** States that MSOP shall provide supervision, aftercare, and case management services for persons committed as sexual psychopathic personalities and sexually dangerous persons discharged after July 1, 1999. Provides that the designated agency will assist the client in obtaining public welfare benefits and will provide services currently available only through county government. Requires the head of the treatment facility to develop a plan of aftercare services for the patient. Provides that MSOP will provide case management and assist the patient in finding employment, shelter, and medical and behavioral health services.

- 27 **Petition; hearing.** Amends §253B.19, subd. 2. Provides that the party seeking discharge or provisional discharge from a treatment facility must present a prima facie case to show that the person is entitled to the relief requested. If the showing is made, then the party opposing discharge must prove by clear and convincing evidence why discharge should be denied. Provides that a party seeking a transfer must show by a preponderance of evidence that the transfer is appropriate.