

(b) The complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant and uses this authority to coerce the complainant to submit. In any such case, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor reasonably believes the complainant to be 16 years of age or older; or

(c) The actor uses force or coercion to accomplish the sexual contact; or

(d) The actor knows or has reason to know that the complainant is mentally defective, mentally incapacitated, or physically helpless.

Sec. 10. **REPEALER.** Minnesota Statutes 1974, Sections 299F.81; 609.555; 609.56; 609.565; 609.57; 609.575; and 609.61, are repealed.

Approved April 2, 1976.

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## CHAPTER 125—H.F.No.1199

[Coded in Part]

*An act relating to treatment for alcohol and drug abuse; providing for programs of intervention and treatment for employees, native Americans, and underserved groups; providing funding for detoxification programs, half-way houses and nonresidential programs; appropriating money; amending Minnesota Statutes 1974, Section 254A.02, Subdivision 1, and by adding subdivisions; and Chapter 254A, by adding sections.*

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

Section 1. Minnesota Statutes 1974, Section 254A.02, Subdivision 1, is amended to read:

**254A.02 ALCOHOL AND DRUG ABUSE; TREATMENT PROGRAMS; DEFINITIONS.** Subdivision 1. For the purposes of ~~Laws 1973, Chapter 572~~ chapter 254A, unless the context clearly indicates otherwise, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 1974, Section 254A.02, is amended by adding subdivisions to read:

Subd. 12. "Area mental health board" or "area board" means a board established pursuant to sections 245.61 to 245.69.

Subd. 13. "Commissioner" means the commissioner of public welfare.

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Subd. 14. "Youth" means any person 18 years of age or under.

Subd. 15. "Underserved populations" means identifiable groups of significant numbers which do not have available to them sufficient programs and services designed to meet their special alcoholism and chemical dependency needs.

Subd. 16. "Affected employee" means an employee whose job performance is substantially affected by chemical dependency.

Subd. 17. "Purchase of service agreement" means a contract between a contractor and service provider for the provision of services. The agreement shall specify the services to be provided, the method of delivery, the type of staff to be employed, and a method of evaluation of the services to be provided.

Sec. 3. Minnesota Statutes 1974, Chapter 254A, is amended by adding a section to read:

**[254A.031] NATIVE AMERICAN PROGRAMS.** The commissioner shall enter into one or more purchase of service agreements to provide programs for native Americans. The agreements shall provide for residential and aftercare treatment programs, programs relating to prevention, education, and community awareness, and training programs. All programs shall be designed to meet the needs identified by the native American community, and appropriate recognition shall be given to the cultural and social needs of native Americans. The commissioner shall enter into the agreements after consultation with the special assistant for native American programs of the alcohol and drug abuse section of the department of public welfare, and all agreements shall be reviewed pursuant to section 254A.03.

Sec. 4. Minnesota Statutes 1974, Chapter 254A, is amended by adding a section to read:

**[254A.12] AFFECTED EMPLOYEES.** Participating area boards shall enter into one or more purchase of service agreements to provide services to employers to develop personnel practices for prevention of alcoholism and other chemical dependency, and to assist affected employees in gaining access to care through identification and referral services.

Sec. 5. Minnesota Statutes 1974, Chapter 254A, is amended by adding a section to read:

**[254A.14] SERVICES TO YOUTH AND OTHER UNDERSERVED POPULATIONS. Subdivision 1. IDENTIFICATION.** Participating area boards shall enter into one or more purchase of service agreements to provide services related to the prevention of chemical dependency to persons and groups which have responsibility for, and access to, youth and other underserved populations. The boards shall also enter into

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Purchase of service agreements to assist youth and other underserved populations in gaining access to care.

Subd. 2. TREATMENT FACILITIES. If, as a result of programs authorized under subdivision 1, significant numbers of persons are identified for whom treatment and aftercare programs are not available, participating area boards may request funds from the commissioner to develop treatment and aftercare capabilities.

Sec. 6. [254A.15] AFFIRMATIVE OUTREACH. The commissioner shall design and implement a plan of affirmative outreach to encourage utilization of the services authorized in sections 3 to 5. The plan may include purchase of services by the commissioner to carry out the plan.

Sec. 7. Minnesota Statutes 1974, Chapter 254A, is amended by adding a section to read:

[254A.16] RESPONSIBILITIES OF THE COMMISSIONER. Subdivision 1. The commissioner shall evaluate or contract for the evaluation of all programs authorized under sections 3 to 5. The evaluation shall be directed at determining the degree to which funded activities attain their pre stated objectives, whether existent and proposed activities are the most appropriate programmatic response to predetermined needs, and whether they are cost effective.

Subd. 2. (a) The commissioner shall provide program guidelines and technical assistance to the area boards in carrying out their responsibilities under sections 4 and 5.

(b) The commissioner shall recommend to the governor and to the legislature means of making the programs funded under sections 3 to 5 wholly or partially self-sustaining.

Sec. 8. Minnesota Statutes 1974, Chapter 254A, is amended by adding a section to read:

[254A.17] ALLOCATION OF FUNDS BY COMMISSIONER OF PUBLIC WELFARE. The funds appropriated for sections 3 to 6 to the commissioner of public welfare shall be allocated by him subject to the following provisions:

(a) For the purposes of section 4, the allocation of funds shall be to each participating area board on the basis of total numbers of persons in the work force in counties served by the area board. For the purposes of section 5, the allocation of funds shall be to each participating area board on the basis of the elementary, middle and secondary school populations and the most current United States census data in counties served by the area board. Area boards shall ensure that services are provided in each county in proportion to the population to be served.

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(b) Funds in section 4 to assist troubled employees in gaining access to care may be used for private employer or employee groups of under 200 persons, or public employer or employee groups of any number and shall be paid on the following cost sharing basis: During the first year of the program, the participating area board shall meet 90 percent of the cost of the program, and the employer or employee group shall meet 10 percent of the cost. During the second year of the program, each party shall pay 50 percent of the cost of the program. Private employer or employee groups of over 200 may participate in programs authorized under section 4, but shall not be eligible for receipt of public funds under this act. The area board and employer and employee groups must work towards a financially self-sustaining system for each program.

(c) Funds shall not be used to supplant or reduce in any way present local, state, federal, or private expenditure levels supporting existing resources.

(d) Existing program resources shall be fully utilized before new programs are developed.

(e) Allocation of funds to area mental health boards shall be contingent upon the demonstrated capability of the boards to adequately plan and coordinate chemical dependency programs.

(f) Area boards shall be encouraged to plan jointly to develop needed program resources on a multiarea basis.

(g) Programs developed by funds allocated under sections 3 to 5 shall comply with the guidelines established by the commissioner.

(h) No more than five percent of the total allocation to an area mental health board may be used for purposes of administering and monitoring purchased services.

(i) Purchase of service agreements and contracts under sections 4, 5 and 7 shall be contingent on the demonstrated capability of a service provider to adequately fulfill the terms of the agreement or contract.

(j) During the biennium, the commissioner may review the unexpended balance of funds allocated to each area board and service provider under sections 4 and 5 and may reallocate unexpended funds within the program categories established by sections 4 and 5 based upon demand for services.

Sec. 9. The commissioner of public welfare shall submit to the legislature by January 2, 1977 a comprehensive five year plan which shall include at least the following:

(a) An analysis of the availability and effectiveness of existing resources and programs in the state to identify and treat chemically de-

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pendent individuals.

(b) An analysis, by population group, of the numbers of chemically dependent individuals in the state, including a determination of whether or not treatment is currently available for them.

(c) A detailed projection, by population group, of the number of chemically dependent individuals, and an analysis of the nature and scope of services they will require.

(d) An analysis of the projected benefits, including cost effectiveness, of funding early identification programs.

(e) An analysis of the future program needs in the state of Minnesota; and an analysis of the cost of the programs.

(f) A specific year by year plan for the development and implementation of the programs set forth in clause (e), and a projected budget for each year.

(g) An analysis of the anticipated nature of the chemical dependency problem in the state by 1981.

Sec. 10. APPROPRIATION. Subdivision 1. For purposes of section 4, there is appropriated to the commissioner of public welfare for the biennium ending June 30, 1977, from the general fund, the sum of \$1,100,000. Not more than \$50,000 shall be used by the commissioner for the administration of the program. The approved complement of the department of public welfare shall be enlarged by two positions.

Subd. 2. For purposes of section 5, there is appropriated the sum of \$1,356,000 from the general fund for the biennium ending June 30, 1977, to the commissioner of public welfare.

Subd. 3. For the purposes of section 3, there is appropriated from the general fund to the commissioner of public welfare for the biennium ending June 30, 1977, the sum of \$775,000. Of this sum, \$500,000 shall be used for residential treatment programs or facilities; \$250,000 shall be used for prevention, aftercare, education, community awareness, and training programs; and \$25,000 shall be used for the development of a plan to implement the provisions of section 3.

Subd. 4. For the purposes of section 6, there is appropriated to the commissioner of public welfare for the biennium ending June 30, 1977, from the general fund, the sum of \$30,000.

Subd. 5. For purposes of section 7, subdivision 1, there is appropriated to the commissioner of public welfare for the biennium ending June 30, 1977, from the general fund, the sum of \$50,000. In addition, the commissioner shall allocate \$40,000 of the sum appropriated to him by Laws 1975, Chapter 434, Section 2, for the purposes specified

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in section 7, subdivision 1 of this act.

Sec. 11. **SUPPLEMENTARY FUNDING.** There is appropriated from the general fund to the commissioner of public welfare for the biennium ending June 30, 1977, the sum of \$2,802,000. Of this sum, \$950,000 shall be used for the state share of the expense of administration, operation and maintenance of detoxification programs pursuant to Minnesota Statutes, Section 254A.08; \$727,000 shall be used for the state share of the expense of administration, operation and maintenance of half-way houses; and \$1,125,000 shall be used for the state share of the expense of administration, operation and maintenance of nonresidential programs.

Sec. 12. This act shall be effective July 1, 1976.

Approved April 2, 1976.

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#### CHAPTER 126—H.F.No.1372

*An act relating to waters and drainage; drainage systems; authorizing reconsideration of engineers' and viewers' reports in certain instances; allowing consideration of changed circumstances due to inflation; amending Minnesota Statutes 1974, Section 106.241.*

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

Section 1. Minnesota Statutes 1974, Section 106.241, is amended to read:

**106.241 WATERS AND DRAINAGE; ENGINEERS' AND VIEWERS' REPORTS; COSTS; PROCEDURE WHEN CONTRACT NOT LET OR COMPLETED.** Subsequent to the establishment of any drainage system, if no bids are received except for a price more than 30 percent in excess of the engineer's estimate, or for a price in excess of the benefits, less damages and other costs, or if a contract is let, but due to unavoidable delays not occasioned by the contractor, the contract cannot be completed for a price within the benefits, less damages and other costs, proceedings may be had as follows.

If it shall appear to the persons interested in said ditch that the engineer made an error in his estimate or that the plans and specifications could be changed in a manner materially affecting the cost of the improvements without interfering with the efficiency thereof, then any of said persons may petition the board or court so stating and asking that ~~an order be made reconsidering and rescinding the order theretofore made establishing the drainage system; and that the engineer's~~

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