

253B.02 DEFINITIONS.

Subdivision 1. **Definitions.** For purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 1a. **Case manager.** "Case manager" has the definition given in section 245.462, subdivision 4, for persons with mental illness.

Subd. 2. **Chemically dependent person.** "Chemically dependent person" means any person (a) determined as being incapable of self-management or management of personal affairs by reason of the habitual and excessive use of alcohol, drugs, or other mind-altering substances; and (b) whose recent conduct as a result of habitual and excessive use of alcohol, drugs, or other mind-altering substances poses a substantial likelihood of physical harm to self or others as demonstrated by (i) a recent attempt or threat to physically harm self or others, (ii) evidence of recent serious physical problems, or (iii) a failure to obtain necessary food, clothing, shelter, or medical care. "Chemically dependent person" also means a pregnant woman who has engaged during the pregnancy in habitual or excessive use, for a nonmedical purpose, of any of the following substances or their derivatives: opium, cocaine, heroin, phencyclidine, methamphetamine, amphetamine, tetrahydrocannabinol, or alcohol.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of human services or the commissioner's designee.

Subd. 4. **Committing court.** "Committing court" means the district court where a petition for commitment was decided. In a case where commitment proceedings are commenced following an acquittal of a crime or offense under section 611.026, "committing court" means the district court in which the acquittal took place.

Subd. 4a. **Crime against the person.** "Crime against the person" means a violation of or attempt to violate any of the following provisions: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse); 609.233 (criminal neglect); 609.2335 (financial exploitation of a vulnerable adult); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.265 (abduction); 609.27, subdivision 1, clause (1) or (2) (coercion); 609.28 (interfering with religious observance) if violence or threats of violence were used; 609.322,

subdivision 1, clause (2) (solicitation); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.365 (incest); 609.498, subdivision 1 (tampering with a witness); 609.50, clause (1) (obstructing legal process, arrest, and firefighting); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.595 (damage to property); and 609.72, subdivision 3 (disorderly conduct by a caregiver).

Subd. 4b. **Community-based treatment.** "Community-based treatment" means community support services programs defined in section 245.462, subdivision 6; day treatment services defined in section 245.462, subdivision 8; outpatient services defined in section 245.462, subdivision 21; and residential treatment services as defined in section 245.462, subdivision 23.

Subd. 5. **Designated agency.** "Designated agency" means an agency selected by the county board to provide the social services required under this chapter.

Subd. 6. **Emergency treatment.** "Emergency treatment" means the treatment of a patient pursuant to section 253B.05 which is necessary to protect the patient or others from immediate harm.

Subd. 7. **Examiner.** "Examiner" means a person who is knowledgeable, trained, and practicing in the diagnosis and assessment or in the treatment of the alleged impairment, and who is:

- (1) a licensed physician;
- (2) a licensed psychologist who has a doctoral degree in psychology or who became a licensed consulting psychologist before July 2, 1975; or
- (3) an advanced practice registered nurse certified in mental health or a licensed physician assistant, except that only a physician or psychologist meeting these requirements may be appointed by the court as described by sections 253B.07, subdivision 3; 253B.092, subdivision 8, paragraph (b); 253B.17, subdivision 3; 253B.18, subdivision 2; and 253B.19, subdivisions 1 and 2, and only a physician or psychologist may conduct an assessment as described by Minnesota Rules of Criminal Procedure, rule 20.

Subd. 7a. **Harmful sexual conduct.** (a) "Harmful sexual conduct" means sexual conduct that creates a substantial likelihood of serious physical or emotional harm to another.

(b) There is a rebuttable presumption that conduct described in the following provisions creates a substantial likelihood that a victim will suffer serious physical or emotional harm: section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), or 609.345 (criminal

sexual conduct in the fourth degree). If the conduct was motivated by the person's sexual impulses or was part of a pattern of behavior that had criminal sexual conduct as a goal, the presumption also applies to conduct described in section 609.185 (murder in the first degree), 609.19 (murder in the second degree), 609.195 (murder in the third degree), 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), 609.221 (assault in the first degree), 609.222 (assault in the second degree), 609.223 (assault in the third degree), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.365 (incest), 609.498 (tampering with a witness), 609.561 (arson in the first degree), 609.582, subdivision 1 (burglary in the first degree), 609.713 (terroristic threats), or 609.749, subdivision 3 or 5 (harassment and stalking).

Subd. 8. **Head of the treatment facility.** "Head of the treatment facility" means the person who is charged with overall responsibility for the professional program of care and treatment of the facility or the person's designee.

Subd. 9. **Health officer.** "Health officer" means a licensed physician, licensed psychologist, licensed social worker, registered nurse working in an emergency room of a hospital, or psychiatric or public health nurse as defined in section 145A.02, subdivision 18, or an advanced practice registered nurse (APRN) as defined in section 148.171, subdivision 3, and formally designated members of a prepetition screening unit established by section 253B.07.

Subd. 10. **Interested person.** "Interested person" means:

(1) an adult, including but not limited to, a public official, including a local welfare agency acting under section 626.5561, and the legal guardian, spouse, parent, legal counsel, adult child, next of kin, or other person designated by a proposed patient; or

(2) a health plan company that is providing coverage for a proposed patient.

Subd. 11. **Licensed psychologist.** "Licensed psychologist" means a person licensed by the Board of Psychology and possessing the qualifications for licensure provided in section 148.907.

Subd. 12. **Licensed physician.** "Licensed physician" means a person licensed in Minnesota to practice medicine or a medical officer of the government of the United States in performance of official duties.

Subd. 12a. **Mental illness.** "Mental illness" has the meaning given in section 245.462, subdivision 20.

Subd. 13. **Person who is mentally ill.** (a) A "person who is mentally ill" means any person who has an organic disorder of the brain or a substantial psychiatric disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, capacity

to recognize reality, or to reason or understand, which is manifested by instances of grossly disturbed behavior or faulty perceptions and poses a substantial likelihood of physical harm to self or others as demonstrated by:

(1) a failure to obtain necessary food, clothing, shelter, or medical care as a result of the impairment;

(2) an inability for reasons other than indigence to obtain necessary food, clothing, shelter, or medical care as a result of the impairment and it is more probable than not that the person will suffer substantial harm, significant psychiatric deterioration or debilitation, or serious illness, unless appropriate treatment and services are provided;

(3) a recent attempt or threat to physically harm self or others; or

(4) recent and volitional conduct involving significant damage to substantial property.

(b) A person is not mentally ill under this section if the impairment is solely due to:

(1) epilepsy;

(2) developmental disability;

(3) brief periods of intoxication caused by alcohol, drugs, or other mind-altering substances;

or

(4) dependence upon or addiction to any alcohol, drugs, or other mind-altering substances.

Subd. 14. **Developmentally disabled person.** "Developmentally disabled person" means any person:

(1) who has been diagnosed as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior and who manifests these conditions prior to the person's 22nd birthday; and

(2) whose recent conduct is a result of a developmental disability and poses a substantial likelihood of physical harm to self or others in that there has been (i) a recent attempt or threat to physically harm self or others, or (ii) a failure and inability to obtain necessary food, clothing, shelter, safety, or medical care.

Subd. 15. **Patient.** "Patient" means any person who is receiving treatment or committed under this chapter.

Subd. 16. **Peace officer.** "Peace officer" means a sheriff, or municipal or other local police officer, or a State Patrol officer when engaged in the authorized duties of office.

Subd. 17. **Person who is mentally ill and dangerous to the public.** (a) A "person who is mentally ill and dangerous to the public" is a person:

(1) who is mentally ill; and

(2) who as a result of that mental illness presents a clear danger to the safety of others as demonstrated by the facts that (i) the person has engaged in an overt act causing or attempting to cause serious physical harm to another and (ii) there is a substantial likelihood that the person will engage in acts capable of inflicting serious physical harm on another.

(b) A person committed as a sexual psychopathic personality or sexually dangerous person as defined in subdivisions 18a and 18b is subject to the provisions of this chapter that apply to persons who are mentally ill and dangerous to the public.

Subd. 18. **Regional treatment center.** "Regional treatment center" means any state-operated facility for persons who are mentally ill, developmentally disabled, or chemically dependent under the direct administrative authority of the commissioner.

Subd. 18a. **Secure treatment facility.** "Secure treatment facility" means the Minnesota Security Hospital and the Minnesota sex offender program facility in Moose Lake and any portion of the Minnesota sex offender program operated by the Minnesota sex offender program at the Minnesota Security Hospital, but does not include services or programs administered by the secure treatment facility outside a secure environment.

Subd. 18b. **Sexual psychopathic personality.** "Sexual psychopathic personality" means the existence in any person of such conditions of emotional instability, or impulsiveness of behavior, or lack of customary standards of good judgment, or failure to appreciate the consequences of personal acts, or a combination of any of these conditions, which render the person irresponsible for personal conduct with respect to sexual matters, if the person has evidenced, by a habitual course of misconduct in sexual matters, an utter lack of power to control the person's sexual impulses and, as a result, is dangerous to other persons.

Subd. 18c. **Sexually dangerous person.** (a) A "sexually dangerous person" means a person who:

(1) has engaged in a course of harmful sexual conduct as defined in subdivision 7a;

(2) has manifested a sexual, personality, or other mental disorder or dysfunction; and

(3) as a result, is likely to engage in acts of harmful sexual conduct as defined in subdivision 7a.

(b) For purposes of this provision, it is not necessary to prove that the person has an inability to control the person's sexual impulses.

Subd. 19. **Treatment facility.** "Treatment facility" means a hospital, community mental health center, or other treatment provider qualified to provide care and treatment for persons who are mentally ill, developmentally disabled, or chemically dependent.

Subd. 20. **Verdict.** "Verdict" means a jury verdict or a general finding by the trial court sitting without a jury pursuant to the Rules of Criminal Procedure.

Subd. 21. **Pass.** "Pass" means any authorized temporary, unsupervised absence from a treatment facility.

Subd. 22. **Pass plan.** "Pass plan" means the part of a treatment plan for a person who has been committed as mentally ill and dangerous that specifies the terms and conditions under which the patient may be released on a pass.

Subd. 23. **Pass-eligible status.** "Pass-eligible status" means the status under which a person committed as mentally ill and dangerous may be released on passes after approval of a pass plan by the head of a treatment facility.

Subd. 24. **Administrative restriction.** "Administrative restriction" means any measure utilized by the commissioner to maintain safety and security, protect possible evidence, and prevent the continuation of suspected criminal acts. Administrative restriction does not mean protective isolation as defined by Minnesota Rules, part 9515.3090, subpart 4. Administrative restriction may include increased monitoring, program limitations, loss of privileges, restricted access to and use of possessions, and separation of a patient from the normal living environment, as determined by the commissioner or the commissioner's designee. Administrative restriction applies only to patients in a secure treatment facility as defined in subdivision 18a who:

- (1) are suspected of committing a crime or charged with a crime;
- (2) are the subject of a criminal investigation;
- (3) are awaiting sentencing following a conviction of a crime; or
- (4) are awaiting transfer to a correctional facility.

The commissioner shall establish policies and procedures according to section 246.014, paragraph (d), regarding the use of administrative restriction. The policies and procedures shall identify the implementation and termination of administrative restrictions. Use of administrative restriction and the reason associated with the use shall be documented in the patient's medical record.

Subd. 25. **Safety.** "Safety" means protection of persons or property from potential danger, risk, injury, harm, or damage.

Subd. 26. **Security.** "Security" means the measures necessary to achieve the management and accountability of patients of the facility, staff, and visitors, as well as property of the facility.

History: 1981 c 37 s 2; 1982 c 581 s 2; 1983 c 251 s 1-4; 1983 c 348 s 1-3; 1984 c 623 s 1-3; 1984 c 654 art 5 s 58; 1986 c 351 s 1; 1986 c 444; 1Sp1986 c 3 art 1 s 66; 1987 c 309 s 24; 1988 c 623 s 1-4; 1989 c 290 art 5 s 2,3; 1990 c 378 s 1; 1991 c 255 s 17,19; 1Sp1994 c 1 art 1 s 1-3; art 2 s 29; 1995 c 189 s8; 1995 c 229 art 4 s 12; 1995 c 259 art 3 s 2; 1996 c 277 s 1; 1996 c 424 s 23; 1997 c 217 art 1 s 6-18; 1Sp2001 c 9 art 9 s 20,21; 2002 c 221 s 18-21; 2002 c 379 art 1 s 113; 2003 c 22 s 1,2; 1Sp2003 c 14 art 6 s 44; 2004 c 288 art 3 s 14-16; 2005 c 56 s 1; 2005 c 165 art 3 s 1,2; 2006 c 260 art 2 s 18; 2007 c 69 s 1; 2009 c 159 s 87