

## CHAPTER 246B

### SEX OFFENDER PROGRAM

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#### 246B.01 MINNESOTA SEX OFFENDER PROGRAM; DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 1a. **Civilly committed sex offender.** "Civilly committed sex offender" means a person who is admitted to the Minnesota Sex Offender Program under chapter 253D for the purpose of assessment, diagnosis, care, treatment, supervision, or other services provided by the Minnesota Sex Offender Program.

Subd. 1b. **Civilly committed sex offender's county.** "Civilly committed sex offender's county" means the county of financial responsibility under chapter 256G, except that when a civilly committed sex offender with no residence in this state is committed while serving a sentence at a penal institution, it means the county from which the civilly committed sex offender was sentenced.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of human services or the commissioner's designee.

Subd. 2a. **Community preparation services.** "Community preparation services" means specialized residential services or programs operated or administered by the Minnesota Sex Offender Program outside of a secure treatment facility. Community preparation services are designed to assist civilly committed sex offenders in developing the appropriate skills and resources necessary for an eventual successful reintegration into a community. A civilly committed sex offender may be placed in community preparation services only upon an order of the judicial appeal panel under section 253B.19.

Subd. 2b. **Cost of care.** "Cost of care" means the commissioner's charge for housing and treatment services provided to any person admitted to the Minnesota Sex Offender Program.

For purposes of this subdivision, "charge for housing and treatment services" means the cost of services, treatment, maintenance, bonds issued for capital improvements, depreciation of buildings and equipment, and indirect costs related to the operation of state facilities. The commissioner may determine the charge for services on an anticipated average per diem basis as an all-inclusive charge per facility.

Subd. 2c. **Executive director.** "Executive director" means the person who is charged with overall responsibility for the operation of the Minnesota Sex Offender Program, or the person's designee.

Subd. 2d. **Local social services agency.** "Local social services agency" means the local social services agency of the civilly committed sex offender's county as defined in subdivision 1b and of the county of commitment, and any other local social services agency possessing information regarding, or requested by the commissioner to investigate, the financial circumstances of a civilly committed sex offender.

Subd. 3. **Sexual psychopathic personality.** "Sexual psychopathic personality" has the meaning given in section 253D.02, subdivision 15.

Subd. 4. **Sexually dangerous person.** "Sexually dangerous person" has the meaning given in section 253D.02, subdivision 16.

**History:** *1Sp1993 c 1 art 7 s 27; 1Sp1994 c 1 art 2 s 25; 1997 c 217 art 1 s 3,4; 2009 c 79 art 3 s 9-12; 2009 c 111 s 5-7; 2010 c 300 s 1-4; 2013 c 49 s 22; 2016 c 189 art 17 s 3*

#### **246B.02 ESTABLISHMENT OF MINNESOTA SEX OFFENDER PROGRAM.**

The commissioner of human services shall establish and maintain the Minnesota Sex Offender Program. The program shall provide specialized sex offender assessment, diagnosis, care, treatment, supervision, and other services to civilly committed sex offenders as defined in section 246B.01, subdivision 1a. Services may include specialized programs at secure treatment facilities as defined in section 253D.02, subdivision 13, consultative services, aftercare services, community-based services and programs, transition services, or other services consistent with the mission of the Department of Human Services.

**History:** *1Sp1993 c 1 art 7 s 28; 1Sp1994 c 1 art 2 s 26; 1Sp2003 c 14 art 6 s 34; 2008 c 326 art 2 s 2; 2009 c 111 s 8; 2010 c 300 s 5; 2013 c 49 s 22*

#### **246B.03 LICENSURE, EVALUATION, AND GRIEVANCE RESOLUTION.**

Subdivision 1. **Licensure.** The commissioner of human services shall apply to the commissioner of health to license the secure treatment facilities operated by the Minnesota Sex Offender Program as supervised living facilities with applicable program licensing standards.

Subd. 2. **Minnesota Sex Offender Program evaluation.** (a) The commissioner shall contract with national sex offender experts to evaluate the sex offender treatment program. The consultant group shall consist of four national experts, including:

(1) three experts who are licensed psychologists, psychiatrists, clinical therapists, or other mental health treatment providers with established and recognized training and experience in the assessment and treatment of sexual offenders; and

(2) one nontreatment professional with relevant training and experience regarding the oversight or licensing of sex offender treatment programs or other relevant mental health treatment programs.

(b) These experts shall, in consultation with the executive clinical director of the sex offender treatment program:

(1) review and identify relevant information and evidence-based best practices and methodologies for effectively assessing, diagnosing, and treating civilly committed sex offenders;

(2) on at least an annual basis, complete a site visit and comprehensive program evaluation that may include a review of program policies and procedures to determine the program's level of compliance, address specific areas of concern brought to the panel's attention by the executive clinical director or executive director, offer recommendations, and complete a written report of its findings to the executive director and clinical director; and

(3) in addition to the annual site visit and review, provide advice, input, and assistance as requested by the executive clinical director or executive director.

(c) The commissioner or commissioner's designee shall enter into contracts as necessary to fulfill the responsibilities under this subdivision.

Subd. 3. **Civilly committed sex offender grievance resolution process.** (a) The executive director shall establish a grievance policy and related procedures that address and attempt to resolve civilly committed sex offender concerns and complaints. The grievance resolution process must include procedures for assessing or investigating a civilly committed sex offender's concerns or complaints, for attempting to resolve issues informally, and for appealing for a review and determination by the executive director or designee.

(b) Any civilly committed sex offender who believes a right that is applicable to an individual under section 144.651 has been violated may file a grievance under paragraph (a) and attempt to resolve the issue internally, or by a complaint with the Minnesota Department of Health, Office of Health Facility Complaints, or both. Complaints filed with the Office of Health Facility Complaints under this paragraph must be processed according to section 144.652.

**History:** *1Sp1993 c 1 art 7 s 29; 1Sp1994 c 1 art 2 s 27; 1Sp2003 c 14 art 6 s 35; 2009 c 111 s 9; 2010 c 300 s 6,7*

#### **246B.035 ANNUAL PERFORMANCE REPORT REQUIRED.**

The executive director of the Minnesota Sex Offender Program shall submit electronically a performance report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over funding for the program by February 15 of each year beginning in 2017. The report must include the following:

- (1) a description of the program, including the strategic mission, goals, objectives, and outcomes;
- (2) the programwide per diem reported in a standard calculated method as outlined in the program policies and procedures;
- (3) program annual statistics as outlined in the departmental policies and procedures; and
- (4) the sex offender program evaluation report required under section 246B.03. The executive director shall submit a printed copy upon request.

**History:** *2009 c 111 s 10; 2016 c 189 art 17 s 4*

#### **246B.04 RULES; EVALUATION.**

Subdivision 1. **Program rules and evaluation.** The commissioner of human services shall adopt rules to govern the operation, maintenance, and licensure of secure treatment facilities operated by the Minnesota Sex Offender Program or at any other facility operated by the commissioner, for a person committed as a sexual psychopathic personality or a sexually dangerous person. The commissioner shall establish an evaluation process to measure outcomes and behavioral changes as a result of treatment compared with incarceration without treatment, to determine the value, if any, of treatment in protecting the public.

Subd. 2. **Ban on obscene material or pornographic work.** The commissioner shall prohibit persons civilly committed as sexual psychopathic personalities or sexually dangerous persons under chapter 253D from having or receiving material that is obscene as defined under section 617.241, subdivision 1, material that depicts sexual conduct as defined under section 617.241, subdivision 1, or pornographic work as defined under section 617.246, subdivision 1, while receiving services in any secure treatment facilities operated by the Minnesota Sex Offender Program or any other facilities operated by the commissioner.

Subd. 3. **Access to data.** The Minnesota Sex Offender Program shall have access to private data contained in the statewide supervision system under section 241.065, as necessary for the administration and management of current civilly committed sex offenders for the purposes of admissions, treatment, security, and supervision. The program shall develop a policy to allow individuals who conduct assessment, develop treatment plans, oversee security, or develop reintegration plans to have access to the data. The commissioner of corrections shall conduct periodic audits to determine whether the policy is being followed.

**History:** *1Sp1993 c 1 art 7 s 30; 1994 c 529 s 3; 1Sp1994 c 1 art 2 s 28; 1Sp2003 c 14 art 6 s 36; 2004 c 134 s 2; 2005 c 10 art 1 s 45; 2009 c 111 s 11; 2010 c 300 s 8; 2013 c 49 s 22*

#### **246B.05 MINNESOTA SEX OFFENDER PROGRAM; VOCATIONAL WORK PROGRAM OPTION.**

Subdivision 1. **Vocational work program option.** The commissioner of human services shall develop a vocational work program for persons admitted to the Minnesota Sex Offender Program. The vocational work program is an extension of therapeutic treatment in order for civilly committed sex offenders to learn valuable work skills and work habits while contributing to their cost of care. The vocational work program may include work maintaining the center or work that is brought to the center by an outside source. The earnings generated from the vocational work program must be deposited into the account created in subdivision 2.

Subd. 2. **Minnesota Sex Offender Program; vocational work program account.** A vocational work program account is created in the state treasury. Money collected by the commissioner of human services for the program under this section must be deposited in this account. Money in the account is appropriated to the commissioner for purposes of this section.

Subd. 3. **Money.** The commissioner has the authority to collect money resulting from the vocational work program for reinvestment within the program.

**History:** *2004 c 288 art 3 s 12; 2009 c 111 s 12; 2010 c 300 s 9*

#### **246B.06 VOCATIONAL WORK PROGRAM.**

Subdivision 1. **Establishment; purpose.** (a) The commissioner of human services may establish, equip, maintain, and operate a vocational work program at any Minnesota Sex Offender Program facility under this chapter. The commissioner may establish vocational activities for sex offender treatment for civilly committed sex offenders as the commissioner deems necessary and suitable to the meaningful work skills training, educational training, and development of proper work habits and extended treatment services for civilly committed sex offenders consistent with the requirements in section 246B.05. The industrial and commercial activities authorized by this section are designated Minnesota State Industries and must be for the primary purpose of sustaining and ensuring Minnesota State Industries' self-sufficiency, providing educational training, meaningful employment, and the teaching of proper work habits to the individuals in the Minnesota Sex Offender Program under this chapter, and not solely as competitive business ventures.

(b) The net profits from the vocational work program must be used for the benefit of the civilly committed sex offenders as it relates to building education and self-sufficiency skills. Prior to the establishment of any vocational activity, the commissioner of human services shall consult with stakeholders including representatives of business, industry, organized labor, the commissioner of education, the state Apprenticeship Council, the commissioner of labor and industry, the commissioner of employment and economic development, the commissioner of administration, and other stakeholders the commissioner deems qualified. The purpose of the stakeholder consultation is to determine the quantity and nature of the goods, wares, merchandise, and services to be made or provided, and the types of processes to be used in their manufacture,

processing, repair, and production consistent with the greatest opportunity for the reform and educational training of the civilly committed sex offenders, and with the best interests of the state, business, industry, and labor.

(c) The commissioner of human services shall, at all times in the conduct of any vocational activity authorized by this section, utilize civilly committed sex offender labor to the greatest extent feasible, provided that the commissioner may employ all administrative, supervisory, and other skilled workers necessary to the proper instruction of the civilly committed sex offenders and the efficient operation of the vocational activities authorized by this section.

(d) The commissioner of human services may authorize the director of any Minnesota sex offender treatment facility under the commissioner's control to accept work projects from outside sources for processing, fabrication, or repair, provided that preference is given to the performance of work projects for state departments and agencies.

**Subd. 2. Revolving fund.** As described in section 246B.05, subdivision 2, there is established a vocational work program revolving fund under the control of the commissioner of human services. The revolving fund must be used for the vocational work program authorized under this section, including, but not limited to, the purchase of equipment and raw materials, the payment of salaries and wages, and other necessary expenses as determined by the commissioner of human services. The purchase of services, materials, and commodities used in and held for resale are not subject to the competitive bidding procedures of section 16C.06, but are subject to all other provisions of chapters 16B and 16C. When practical, purchases must be made from small targeted group businesses designated under section 16C.16. Additionally, the expenses of client educational training and self-sufficiency skills may be financed from the revolving fund in an amount to be determined by the commissioner or designee. The proceeds and income from all vocational work program activities conducted at the Minnesota sex offender treatment facilities must be deposited in the revolving fund subject to disbursement under subdivision 3. The commissioner of human services may request that money in the fund be invested pursuant to section 11A.25. Proceeds from the investment not currently needed must be accounted for separately and credited to the revolving fund.

**Subd. 3. Disbursement from fund.** The vocational work program revolving fund must be deposited in the state treasury and paid out only on proper vouchers as authorized and approved by the commissioner of human services, and in the same manner and under the same restrictions as are now provided by law for the disbursement of funds by the commissioner. An amount deposited in the state treasury equal to six months of net operating cash as determined by the prior 12 months of revenue and cash flow statements must be restricted for use only by the vocational work program as described under subdivision 2. For purposes of this subdivision, "net operating cash" means net income, minus sales, plus cost of goods sold. Cost of goods sold include all direct costs of products attributable to the goods' production.

**Subd. 4. Revolving fund; borrowing.** The commissioner of human services is authorized to borrow sums of money as the commissioner deems necessary to meet current demands on the vocational work program revolving fund. The sums borrowed must not exceed, in any calendar year, six months of net operating cash as determined by the previous 12 months of the vocational program's revenue and cash flow statements. If the commissioner of human services determines that borrowing of funds is necessary, the commissioner of human services shall certify this need to the commissioner of management and budget. Funds may be borrowed from general fund appropriations to the Minnesota Sex Offender Program with the authorization of the commissioner of management and budget. Upon authorization of the commissioner of management and budget, the transfer must be made and credited to the vocational work program revolving fund. The sum transferred to the vocational work program revolving fund must be repaid by the commissioner of human services from the revolving fund to the fund from which it was transferred in a time period specified

by the commissioner of management and budget, but by no later than the end of the biennium, as defined in section 16A.011, in which the loan is made. When any transfer is made to the vocational work program revolving fund, the commissioner of management and budget shall notify the commissioner of human services of the amount transferred to the fund and the date the transfer is to be repaid.

**Subd. 5. Federal grant fund transfers.** Grants received by the commissioner of human services from the federal government for any vocational training program or for administration by the commissioner of human services must (1) be credited to a federal grant fund and then (2) be transferred from the federal grant fund to the credit of the commissioner of human services in the appropriate account upon certification by the commissioner of human services that the amounts requested to be transferred have been earned or are required for the purposes of this section. Funds received by the federal grant fund need not be budgeted as such, provided transfers from the fund are budgeted for allotment purposes in the appropriate appropriation.

**Subd. 6. Wages.** Notwithstanding section 177.24 or any other law to the contrary, the commissioner of human services has the discretion to set the pay rate for individuals participating in the vocational work program. The commissioner has the authority to retain up to 50 percent of any payments made to an individual participating in the vocational work program for the purpose of reducing state costs associated with operating the Minnesota Sex Offender Program.

**Subd. 7. Status of civilly committed sex offenders.** Civilly committed sex offenders participating in the vocational work program are not employees of the Minnesota Sex Offender Program, the Department of Human Services, or the state, and are not subject to fair labor standards under sections 177.21 to 177.35; workers compensation under sections 176.011 to 176.862; the Minnesota Human Rights Act under sections 363A.01 to 363A.41; laws governing state employees under chapter 43A; labor relations under chapter 179A; or the successors to any of these sections and any other laws pertaining to employees and employment.

**Subd. 8. Claims.** Claims and demands arising out of injury to or death of a civilly committed sex offender while that individual is participating in the vocational work program or performing a work assignment maintaining the facility must be presented to, heard by, and determined exclusively by the legislature as provided in section 3.738.

**History:** 2008 c 326 art 2 s 3; 2009 c 101 art 2 s 109; 2009 c 111 s 13; 2010 c 300 s 10-13; 2010 c 382 s 47

## **246B.07 PAYMENT FOR CARE AND TREATMENT; DETERMINATION.**

**Subdivision 1. Procedures.** The commissioner shall determine or redetermine, if necessary, what amount of the cost of care, if any, the civilly committed sex offender is able to pay. The civilly committed sex offender shall provide to the commissioner documents and proof necessary to determine the ability to pay. Failure to provide the commissioner with sufficient information to determine ability to pay may make the civilly committed sex offender liable for the full cost of care until the time when sufficient information is provided.

**Subd. 2. Rules.** The commissioner shall use the standards in section 246.51, subdivision 2, to determine the civilly committed sex offender's liability for the care provided by the Minnesota Sex Offender Program.

**Subd. 3. Applicability.** The commissioner may recover, under sections 246B.07 to 246B.10, the cost of any care provided by the Minnesota Sex Offender Program.

**History:** 2009 c 79 art 3 s 13; 2010 c 300 s 14,15

**246B.08 PAYMENT FOR CARE; ORDER; ACTION.**

The commissioner shall issue an order to the civilly committed sex offender or the guardian of the estate, if there is one, requiring the civilly committed sex offender or guardian to pay to the state the amounts determined, the total of which must not exceed the full cost of care. The order must specifically state the commissioner's determination and must be conclusive, unless appealed. If a civilly committed sex offender fails to pay the amount due, the attorney general, upon request of the commissioner, may institute, or direct the appropriate county attorney to institute, a civil action to recover the amount.

**History:** 2009 c 79 art 3 s 14; 2010 c 300 s 16

**246B.09 CLAIM AGAINST ESTATE OF DECEASED CIVILLY COMMITTED SEX OFFENDER.**

Subdivision 1. **Estate of a civilly committed sex offender.** Upon the death of a civilly committed sex offender, or a former civilly committed sex offender, the total cost of care provided to the individual, less the amount actually paid toward the cost of care by the civilly committed sex offender, must be filed by the commissioner as a claim against the estate of the civilly committed sex offender with the court having jurisdiction to probate the estate, and all proceeds collected by the state in the case must be divided between the state and county in proportion to the cost of care each has borne.

Subd. 2. **Preferred status.** An estate claim in subdivision 1 must be considered an expense of the last illness for purposes of section 524.3-805.

If the commissioner determines that the property or estate of a civilly committed sex offender is not more than needed to care for and maintain the spouse and minor or dependent children of a deceased civilly committed sex offender, the commissioner has the power to compromise the claim of the state in a manner deemed just and proper.

Subd. 3. **Exception from statute of limitations.** Any statute of limitations that limits the commissioner in recovering the cost of care obligation incurred by a civilly committed sex offender or former civilly committed sex offender must not apply to any claim against an estate made under this section to recover cost of care.

**History:** 2009 c 79 art 3 s 15; 2010 c 300 s 17

**246B.10 LIABILITY OF COUNTY; REIMBURSEMENT.**

(a) The civilly committed sex offender's county shall pay to the state a portion of the cost of care provided in the Minnesota Sex Offender Program to a civilly committed sex offender who has legally settled in that county.

(b) A county's payment must be made from the county's own sources of revenue and payments must:

(1) equal ten percent of the cost of care, as determined by the commissioner, for each day or portion of a day that the civilly committed sex offender spends at the facility for individuals admitted to the Minnesota Sex Offender Program before August 1, 2011; or

(2) equal 25 percent of the cost of care, as determined by the commissioner, for each day or portion of a day that the civilly committed sex offender:

(i) spends at the facility for individuals admitted to the Minnesota Sex Offender Program on or after August 1, 2011; or

(ii) receives services within a program operated by the Minnesota Sex Offender Program while on provisional discharge.

(c) The county is responsible for paying the state the remaining amount if payments received by the state under this chapter exceed:

(1) 90 percent of the cost of care for individuals admitted to the Minnesota Sex Offender Program before August 1, 2011; or

(2) 75 percent of the cost of care for individuals:

(i) admitted to the Minnesota Sex Offender Program on or after August 1, 2011; or

(ii) receiving services within a program operated by the Minnesota Sex Offender Program while on provisional discharge.

(d) The county is not entitled to reimbursement from the civilly committed sex offender, the civilly committed sex offender's estate, or from the civilly committed sex offender's relatives, except as provided in section 246B.07.

**History:** 2009 c 79 art 3 s 16; 2010 c 300 s 18; 1Sp2011 c 9 art 8 s 1; 1Sp2019 c 9 art 3 s 2