

## CHAPTER 244

CRIMINAL SENTENCES, CONDITIONS,  
DURATION, APPEALS

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**244.052 PREDATORY OFFENDERS; NOTICE.**

*[For text of subs 1 and 2, see M.S.2000]*

Subd. 3. **End-of-confinement review committee.** (a) The commissioner of corrections shall establish and administer end-of-confinement review committees at each state correctional facility and at each state treatment facility where predatory offenders are confined. The committees shall assess on a case-by-case basis the public risk posed by predatory offenders who are about to be released from confinement.

(b) Each committee shall be a standing committee and shall consist of the following members appointed by the commissioner:

- (1) the chief executive officer or head of the correctional or treatment facility where the offender is currently confined, or that person's designee;
- (2) a law enforcement officer;
- (3) a treatment professional who is trained in the assessment of sex offenders;
- (4) a caseworker experienced in supervising sex offenders; and
- (5) a victim's services professional.

Members of the committee, other than the facility's chief executive officer or head, shall be appointed by the commissioner to two-year terms. The chief executive officer or head of the facility or designee shall act as chair of the committee and shall use the facility's staff, as needed, to administer the committee, obtain necessary information from outside sources, and prepare risk assessment reports on offenders.

(c) The committee shall have access to the following data on a predatory offender only for the purposes of its assessment and to defend the committee's risk assessment determination upon administrative review under this section:

- (1) private medical data under section 13.384 or 144.335, or welfare data under section 13.46 that relate to medical treatment of the offender;
- (2) private and confidential court services data under section 13.84;
- (3) private and confidential corrections data under section 13.85; and
- (4) private criminal history data under section 13.87.

Data collected and maintained by the committee under this paragraph may not be disclosed outside the committee, except as provided under section 13.05, subdivision 3 or 4. The predatory offender has access to data on the offender collected and maintained by the committee, unless the data are confidential data received under this paragraph.

(d)(i) Except as otherwise provided in item (ii), at least 90 days before a predatory offender is to be released from confinement, the commissioner of corrections shall convene the appropriate end-of-confinement review committee for the purpose of assessing the risk presented by the offender and determining the risk level to which the offender shall be assigned under paragraph (e). The offender and the law enforcement agency that was responsible for the charge resulting in confinement shall be notified of the time and place of the committee's meeting. The offender has a right to be present and be heard at the meeting. The law enforcement agency may provide material in writing that is relevant to the offender's risk level to the chair of the committee. The

committee shall use the risk factors described in paragraph (g) and the risk assessment scale developed under subdivision 2 to determine the offender's risk assessment score and risk level. Offenders scheduled for release from confinement shall be assessed by the committee established at the facility from which the offender is to be released.

(ii) If an offender is received for confinement in a facility with less than 90 days remaining in the offender's term of confinement, the offender's risk shall be assessed at the first regularly scheduled end of confinement review committee that convenes after the appropriate documentation for the risk assessment is assembled by the committee. The commissioner shall make reasonable efforts to ensure that offender's risk is assessed and a risk level is assigned or reassigned at least 30 days before the offender's release date.

(e) The committee shall assign to risk level I a predatory offender whose risk assessment score indicates a low risk of reoffense. The committee shall assign to risk level II an offender whose risk assessment score indicates a moderate risk of reoffense. The committee shall assign to risk level III an offender whose risk assessment score indicates a high risk of reoffense.

(f) Before the predatory offender is released from confinement, the committee shall prepare a risk assessment report which specifies the risk level to which the offender has been assigned and the reasons underlying the committee's risk assessment decision. The committee shall give the report to the offender and to the law enforcement agency at least 60 days before an offender is released from confinement. If the risk assessment is performed under the circumstances described in paragraph (d), item (ii), the report shall be given to the offender and the law enforcement agency as soon as it is available. The committee also shall inform the offender of the availability of review under subdivision 6.

(g) As used in this subdivision, "risk factors" includes, but is not limited to, the following factors:

(1) the seriousness of the offense should the offender reoffend. This factor includes consideration of the following:

- (i) the degree of likely force or harm;
- (ii) the degree of likely physical contact; and
- (iii) the age of the likely victim;

(2) the offender's prior offense history. This factor includes consideration of the following:

- (i) the relationship of prior victims to the offender;
- (ii) the number of prior offenses or victims;
- (iii) the duration of the offender's prior offense history;
- (iv) the length of time since the offender's last prior offense while the offender was at risk to commit offenses; and
- (v) the offender's prior history of other antisocial acts;

(3) the offender's characteristics. This factor includes consideration of the following:

- (i) the offender's response to prior treatment efforts; and
- (ii) the offender's history of substance abuse;

(4) the availability of community supports to the offender. This factor includes consideration of the following:

(i) the availability and likelihood that the offender will be involved in therapeutic treatment;

(ii) the availability of residential supports to the offender, such as a stable and supervised living arrangement in an appropriate location;

(iii) the offender's familial and social relationships, including the nature and length of these relationships and the level of support that the offender may receive from these persons; and

(iv) the offender's lack of education or employment stability;

(5) whether the offender has indicated or credible evidence in the record indicates that the offender will reoffend if released into the community; and

(6) whether the offender demonstrates a physical condition that minimizes the risk of reoffense, including but not limited to, advanced age or a debilitating illness or physical condition.

(h) Upon the request of the law enforcement agency or the offender's corrections agent, the commissioner may reconvene the end-of-confinement review committee for the purpose of reassessing the risk level to which an offender has been assigned under paragraph (e). In a request for a reassessment, the law enforcement agency which was responsible for the charge resulting in confinement or agent shall list the facts and circumstances arising after the initial assignment or facts and circumstances known to law enforcement or the agent but not considered by the committee under paragraph (e) which support the request for a reassessment. The request for reassessment by the law enforcement agency must occur within 30 days of receipt of the report indicating the offender's risk level assignment. The offender's corrections agent, in consultation with the chief law enforcement officer in the area where the offender resides or intends to reside, may request a review of a risk level at any time if substantial evidence exists that the offender's risk level should be reviewed by an end-of-confinement review committee. This evidence includes, but is not limited to, evidence of treatment failures or completions, evidence of exceptional crime-free community adjustment or lack of appropriate adjustment, evidence of substantial community need to know more about the offender or mitigating circumstances that would narrow the proposed scope of notification, or other practical situations articulated and based in evidence of the offender's behavior while under supervision. Upon review of the request, the end-of-confinement review committee may reassign an offender to a different risk level. If the offender is reassigned to a higher risk level, the offender has the right to seek review of the committee's determination under subdivision 6.

(i) An offender may request the end-of-confinement review committee to reassess the offender's assigned risk level after three years have elapsed since the committee's initial risk assessment and may renew the request once every two years following subsequent denials. In a request for reassessment, the offender shall list the facts and circumstances which demonstrate that the offender no longer poses the same degree of risk to the community. In order for a request for a risk level reduction to be granted, the offender must demonstrate full compliance with supervised release conditions, completion of required post-release treatment programming, and full compliance with all registration requirements as detailed in section 243.166. The offender must also not have been convicted of any felony, gross misdemeanor, or misdemeanor offenses subsequent to the assignment of the original risk level. The committee shall follow the process outlined in paragraphs (a) to (c) in the reassessment. An offender who is incarcerated may not request a reassessment under this paragraph.

(j) Offenders returned to prison as release violators shall not have a right to a subsequent risk reassessment by the end-of-confinement review committee unless substantial evidence indicates that the offender's risk to the public has increased.

(k) The commissioner shall establish an end-of-confinement review committee to assign a risk level to offenders who are released from a federal correctional facility in Minnesota or another state and who intend to reside in Minnesota, and to offenders accepted from another state under a reciprocal agreement for parole supervision under the interstate compact authorized by section 243.16. The committee shall make reasonable efforts to conform to the same timelines as applied to Minnesota cases. Offenders accepted from another state under a reciprocal agreement for probation supervision are not assigned a risk level, but are considered downward dispositional departures. The probation or court services officer and law enforcement officer shall manage such cases in accordance with section 244.10, subdivision 2a. The policies and procedures of the committee for federal offenders and interstate compact cases must

be in accordance with all requirements as set forth in this section, unless restrictions caused by the nature of federal or interstate transfers prevents such conformance.

(1) If the committee assigns a predatory offender to risk level III, the committee shall determine whether residency restrictions shall be included in the conditions of the offender's release based on the offender's pattern of offending behavior.

*[For text of subs 4 to 8, see M.S.2000]*

**History:** 2001 c 210 s 15

#### **244.054 DISCHARGE PLANS; OFFENDERS WITH SERIOUS AND PERSISTENT MENTAL ILLNESS.**

Subdivision 1. **Offer to develop plan.** The commissioner of human services, in collaboration with the commissioner of corrections, shall offer to develop a discharge plan for community-based services for every offender with serious and persistent mental illness, as defined in section 245.462, subdivision 20, paragraph (c), who is being released from a correctional facility. If an offender is being released pursuant to section 244.05, the offender may choose to have the discharge plan made one of the conditions of the offender's supervised release and shall follow the conditions to the extent that services are available and offered to the offender.

Subd. 2. **Content of plan.** If an offender chooses to have a discharge plan developed, the commissioner of human services shall develop and implement a discharge plan, which must include at least the following:

(1) at least 90 days before the offender is due to be discharged, the commissioner of human services shall designate an agent of the department of human services with mental health training to serve as the primary person responsible for carrying out discharge planning activities;

(2) at least 75 days before the offender is due to be discharged, the offender's designated agent shall:

(i) obtain informed consent and releases of information from the offender that are needed for transition services;

(ii) contact the county human services department in the community where the offender expects to reside following discharge, and inform the department of the offender's impending discharge and the planned date of the offender's return to the community; determine whether the county or a designated contracted provider will provide case management services to the offender; refer the offender to the case management services provider; and confirm that the case management services provider will have opened the offender's case prior to the offender's discharge; and

(iii) refer the offender to appropriate staff in the county human services department in the community where the offender expects to reside following discharge, for enrollment of the offender if eligible in medical assistance or general assistance medical care, using special procedures established by process and department of human services bulletin;

(3) at least 2-1/2 months before discharge, the offender's designated agent shall secure timely appointments for the offender with a psychiatrist no later than 30 days following discharge, and with other program staff at a community mental health provider that is able to serve former offenders with serious and persistent mental illness;

(4) at least 30 days before discharge, the offender's designated agent shall convene a pre-discharge assessment and planning meeting of key staff from the programs in which the offender has participated while in the correctional facility, the offender, and the supervising agent assigned to the offender. At the meeting, attendees shall provide background information and continuing care recommendations for the offender, including information on the offender's risk for relapse; current medications, including dosage and frequency; therapy and behavioral goals; diagnostic and assessment information, including results of a chemical dependency evaluation; confirmation of appointments with a psychiatrist and other program staff in the community; a relapse

prevention plan; continuing care needs; needs for housing, employment, and finance support and assistance; and recommendations for successful community integration, including chemical dependency treatment or support if chemical dependency is a risk factor. Immediately following this meeting, the offender's designated agent shall summarize this background information and continuing care recommendations in a written report;

(5) immediately following the predischarge assessment and planning meeting, the provider of mental health case management services who will serve the offender following discharge shall offer to make arrangements and referrals for housing, financial support, benefits assistance, employment counseling, and other services required in sections 245.461 to 245.486;

(6) at least ten days before the offender's first scheduled postdischarge appointment with a mental health provider, the offender's designated agent shall transfer the following records to the offender's case management services provider and psychiatrist: the predischarge assessment and planning report, medical records, and pharmacy records. These records may be transferred only if the offender provides informed consent for their release;

(7) upon discharge, the offender's designated agent shall ensure that the offender leaves the correctional facility with at least a ten-day supply of all necessary medications; and

(8) upon discharge, the prescribing authority at the offender's correctional facility shall telephone in prescriptions for all necessary medications to a pharmacy in the community where the offender plans to reside. The prescriptions must provide at least a 30-day supply of all necessary medications, and must be able to be refilled once for one additional 30-day supply.

**History:** *1Sp2001 c 9 art 9 s 4*

#### **244.173 CHALLENGE INCARCERATION PROGRAM; EVALUATION AND REPORT.**

The commissioner shall develop a system for gathering and analyzing information concerning the value and effectiveness of the challenge incarceration program.

**History:** *2001 c 210 s 16*

#### **244.18 LOCAL CORRECTIONAL FEES; IMPOSITION ON OFFENDERS.**

Subdivision 1. **Definition.** As used in this section, "local correctional fees" include fees for the following correctional services:

- (1) community service work placement and supervision;
- (2) restitution collection;
- (3) supervision;
- (4) court ordered investigations;
- (5) any other court ordered service;
- (6) postprison supervision or other form of release; or
- (7) supervision or other services provided to probationers or parolees under section 243.16 to be provided by a local probation and parole agency established under section 244.19 or community corrections agency established under chapter 401.

*[For text of subs 2 to 6, see M.S.2000]*

**History:** *2001 c 210 s 17*