

Sex Offenders and Predatory Offenders: Minnesota Criminal and Civil Regulatory Laws

This information brief describes Minnesota laws that apply to sex offenders and predatory offenders. The information brief consists of two parts. The first part summarizes the criminal laws that prohibit unlawful sexual conduct, the criminal penalties that apply to these offenses, and the mandatory sentences that courts must impose on certain offenders. The second part describes the civil and regulatory laws that supplement the criminal provisions. These regulatory laws include the predatory offender registration law, the community notification law, and the law authorizing civil commitment of persons determined to be sexually dangerous.

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Criminal Provisions

Elements of Criminal Sexual Conduct

Minnesota law classifies criminal sexual conduct into five categories: first- through fifth-degree criminal sexual conduct. Each degree of the crime covers a variety of behavior, with first-degree carrying the most severe penalties and fifth-degree the least severe. Generally speaking, the first-degree and third-degree crimes apply to sexual conduct involving sexual **penetration** of the victim; the second-, fourth-, and fifth-degree crimes apply to sexual conduct involving sexual **contact** with the victim without sexual penetration.

The elements of the criminal sexual conduct crimes also vary with respect to a number of other issues. For example, criminal sexual conduct in the first and second degree typically apply to conduct involving personal injury to the victim; the use or threatened use of force, violence, or a dangerous weapon; or victims who are extremely young. Criminal sexual conduct in the third, fourth, and fifth degree typically address less aggravated conduct and apply to other situations in which the victim either did not consent to the sexual conduct, was relatively young, or was incapable of voluntarily consenting to the sexual conduct due to a particular vulnerability or due to the special relationship between the offender and the victim. [Minn. Stat. §§ 609.342 to 609.3451.](#)

Appendix A contains detailed charts describing the specific elements of each degree of the criminal sexual conduct crimes.

Criminal Penalties

Criminal sexual conduct in the first, second, third, and fourth degree are felony-level offenses. Criminal sexual conduct in the fifth degree is a gross misdemeanor offense; however, certain repeat violations of this crime are classified as felonies. [Minn. Stat. §§ 609.342 to 609.3451.](#)

The chart on the following page displays the maximum statutory penalty for each degree of the crime and the presumptive sentence for each degree of the crime under the sentencing guidelines.

Name of crime	Type of activity	Maximum penalty provided by statute	Presumptive Sentencing Guidelines sentence (no criminal history)
1st degree criminal sexual conduct	Sexual penetration; certain sexual contact with victim under 13 years old	30 years; \$40,000 fine	Statutory law, which preempts the sentencing guidelines, presumes an executed sentence of 144 months for all violations
2nd degree criminal sexual conduct	Sexual contact	25 years; \$35,000 fine	48 months in prison; 21 months stayed sentence for “statutory rape.”* Statutory law presumes an executed sentence of 90 months for crimes where the perpetrator uses or threatens to use force or violence, causes injury, uses a dangerous weapon, or creates significant fear on the part of the victim of imminent great bodily harm
3rd degree criminal sexual conduct	Sexual penetration	15 years; \$30,000 fine	48 months in prison; 18 months stayed sentence for “statutory rape”*
4th degree criminal sexual conduct	Sexual contact	10 years; \$20,000 fine	21 months stayed sentence; 12 months stayed sentence for “statutory rape”*
5th degree criminal sexual conduct	Sexual contact; certain lewd conduct	One year; \$3,000 fine (gross misdemeanor). Certain repeat violations punishable by 5 years; \$10,000 fine	Sentencing guidelines do not apply to gross misdemeanor violations; felony violations are not ranked in sentencing guidelines and sentencing is left to court’s discretion

*As used in this chart, “statutory rape” means a criminal sexual conduct crime that has the following elements: (1) sexual conduct; (2) a victim of a certain age; and, for certain crimes, either (3) a familial relationship between the actor and the victim; or (4) use of a position of authority by the actor. The term “statutory rape” is not used in Minnesota Statutes or case law.

Mandatory Minimum Criminal Penalties

There are a number of mandatory minimum criminal penalties that apply to certain criminal sexual conduct offenses. These mandatory sentencing provisions are described below.

First-Degree Criminal Sexual Conduct Offenders. The court must presume that an executed sentence of 144 months applies to any offender convicted of first-degree criminal sexual conduct. This penalty does not apply if a longer mandatory minimum sentence is otherwise required or the sentencing guidelines presume a longer executed sentence. If the court sentences an offender in a manner other than as provided by this law, the sentence is a departure under the sentencing guidelines, requiring the court to make certain findings. [Minn. Stat. § 609.342, subd. 2.](#)

Certain Second-Degree Criminal Sexual Conduct Offenders. The court must presume that an executed sentence of 90 months applies to any offender convicted of second-degree criminal sexual conduct when the actor:

- uses or threatens use of force or violence
- causes injury to the complainant
- uses a dangerous weapon or
- creates significant fear on the part of the complainant of imminent great bodily harm.

The presumptive executed sentence does not apply to other second-degree criminal sexual conduct offenses.

This penalty does not apply if a longer mandatory minimum sentence is otherwise required by law or the sentencing guidelines presume a longer executed sentence. If the court sentences an offender in a manner other than as provided by this law, the sentence is a departure under the sentencing guidelines, requiring the court to make certain findings. [Minn. Stat. § 609.343, subd. 2.](#)

Patterned Predatory Offenders. If the court finds that an offender who committed a predatory crime (as enumerated in statute) is a “patterned predatory offender,” it must sentence the offender to **not less than double the presumptive prison sentence** and not more than the statutory maximum sentence, and must order that the offender be placed on conditional release for at least ten years following release from prison. The statutory maximum for the crime is increased to 40 years in cases where the fact-finder determines at trial or at the time of the guilty plea that the offense was sexually motivated. The court must consider sentencing under the patterned predatory offender law whenever an offender is convicted of criminal sexual conduct in the first or second degree.¹ [Minn. Stat. § 609.108.](#)

¹ In *State v. Grossman*, the Minnesota Supreme Court affirmed the court of appeals’ reversal of a sentence under Minnesota’s patterned predatory offender law. See, *State v. Grossman*, 622 N.W.2d 394 (Minn. Ct. App. 2001), *pet. for rev. granted* (Apr. 17, 2001). The court’s reversal was based upon *Apprendi v. New Jersey*, in which the United States Supreme Court stated “[o]ther than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt.” See *Apprendi v. New Jersey*, 120 S. Ct. 2348, 2362-63 (2000). Applying *Apprendi*, the court of appeals found that two of the factors that must exist for the patterned predatory offender sentence to apply (that the offender is a danger to public safety and the offender needs certain long-term treatment or supervision) must be determined by the jury and the sentencing court, as they were in *Grossman*’s case.

Repeat or Violent Predatory Offenders. The court must impose at least a **three-year prison sentence** on a person convicted of a second sex offense within a 15-year period. The sentence may be stayed only if predatory offender treatment is required. [Minn. Stat. § 609.109\(2\)](#).

The court must impose a **life imprisonment** penalty on a person convicted of first-degree criminal sexual conduct if it determines that any of the following circumstances exist:

- the person has been sentenced previously as a patterned predatory offender;
- the person was previously convicted (before August 1, 1989) of criminal sexual conduct in the first, second, or third degree and was sentenced to at least twice the presumptive sentence; or
- the person has two previous convictions for criminal sexual conduct in the first, second, or third degree and was discharged from the sentence for the most recent prior conviction within the past 15 years. [Minn. Stat. § 609.109\(3\)](#).

The court must impose at least a **30-year prison sentence** on a person convicted of first- or second-degree criminal sexual conduct involving force or violence if it determines that **both** of the following circumstances exist:

- the crime involved an aggravating factor justifying an upward sentencing departure (other than the “repeat offender” aggravating factor); and
- the person has a previous conviction for criminal sexual conduct in the first, second, or third degree.

For all of the above provisions, prior convictions “decay” (i.e., no longer count) if more than 15 years have passed since the sentence ended. [Minn. Stat. § 609.109\(4\)](#).

The court must sentence an offender to at least **twice the presumptive prison sentence** if the person was convicted of forcible or violent criminal sexual conduct in the first, second, or third degree and the court determines that the crime involved an aggravating factor justifying an upward sentencing departure. [Minn. Stat. § 609.109\(6\)](#).

**Mandatory Minimum
Fines**

In addition to the mandatory sentencing provisions, mandatory minimum fines apply to all persons convicted of criminal sexual conduct. These minimum fines are equal to 30 percent of the maximum fine authorized by law for the crime of conviction. The court may not waive the minimum fine, but may reduce it to not less than \$50 or allow payment of the fine in installments due to the offender's indigency. In cases of indigency, the court also may order an offender to perform community work service in lieu of paying the fine. The court must forward 70 percent of the minimum fine to local programs that serve victims of sexual assault and the remainder to the state general fund. If there are no local programs in the court's jurisdiction, the entire minimum fine must be forwarded to the state general fund. [Minn. Stat. § 609.101.](#)

**Other Mandatory
Sentencing Provisions**

Convicted predatory offenders also are subject to several other mandatory sentencing laws that are designed to minimize their recidivism risk.

Minimum Conditional Release Term. If a court sentences a felony-level sex offender to prison, the court must also sentence the offender to serve a minimum period of "conditional release" after release from prison. The mandatory conditional release periods are five years for first-time offenders and ten years for repeat offenders. The ten-year conditional release period applies when the prior offense was a violation of Minnesota's first- through fourth-degree criminal sexual conduct laws or a violation of a similar law of another state or the United States. The conditional release period runs concurrently with the offender's supervised release term. [Minn. Stat. § 609.109\(7\).](#)

Mandatory Predatory Offender Assessment and Treatment. The court must order a predatory offender treatment assessment for any person convicted of criminal sexual conduct (any degree), surreptitious intrusion, obscene phone calls, or indecent exposure. The court may waive the assessment if the offender is eligible for a presumptive prison sentence or has already been assessed.

If the assessment indicates the offender is in need of and amenable to treatment, the court must order the offender to undergo treatment if the court places the offender on probation. [Minn. Stat. § 609.3452.](#)

DNA Analysis. The court must order persons convicted of or adjudicated for a sex offense to provide a biological sample for DNA analysis. This requirement also applies to persons convicted of other violent crimes listed in the law. If an individual was not ordered to provide this specimen at the time of sentencing, the offender must provide the specimen before release. An offender who is incarcerated for any offense who has a conviction for a prior offense enumerated in the law must provide a specimen before release, even if the offense for which the person is currently serving time is not an offense enumerated in the law. [Minn. Stat. § 609.117](#).

An offender convicted of any felony offense other than a specific violent crime enumerated in section [609.117](#) must provide a specimen for *future* DNA testing. This specimen must be obtained at sentencing. If the specimen is not obtained at sentencing, the offender must provide the specimen before release. This provision is effective until June 30, 2005. [Minn. Stat. § 609.119](#).

Civil and Regulatory Provisions

Predatory Offender Registration Law

Individuals Subject to Registration

The predatory offender registration law requires registration of individuals who have committed certain crimes under Minnesota law, federal law, or the law of other states. The law also requires registration of certain individuals who have been civilly committed.

Offenders Who Commit Offenses in Minnesota. An adult who is charged with and convicted of, or a juvenile who is petitioned for and adjudicated delinquent for, one of the following offenses or another offense arising out of the same set of circumstances, must register under the law:

- murder while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence;
- kidnapping;
- criminal sexual conduct in the first, second, third, and fourth degree and felony criminal sexual conduct in the fifth degree;
- felony indecent exposure;
- false imprisonment of a minor;
- soliciting a minor to engage in prostitution;

- soliciting a minor to engage in sexual conduct;
- using a minor in a sexual performance; or
-

possessing pictorial representations of minors.

An adult also must register under the law if convicted of a predatory crime under section 609.108² if the offender was sentenced as a patterned predatory offender or the court found that the crime was part of a predatory pattern of behavior that had criminal sexual conduct as its goal. **Minn. Stat. § 243.16, subd. 1.**

Offenders Who Commit Offenses under United States Law. An adult or juvenile must register if convicted of or adjudicated delinquent for violating a law of the United States similar to any of the above laws. An adult or juvenile also must register if convicted of or adjudicated delinquent for an offense pursuant to court martial for violating a law of the United States, including the Uniform Code of Military Justice, similar to any of the above laws. **Minn. Stat. § 243.166, subd. 1.**

Offenders Who Commit Offenses in Other States. A person who was convicted in another state of an offense that would be a violation of one of the above laws if committed in this state must register if the person enters the state to reside, work, or attend school.³ The person must register in Minnesota if ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of the offense, triggering registration, unless the person is subject to lifetime registration. If the person is subject to lifetime registration, the person must register for life. This requirement also applies to juvenile offenders whose cases are handled in the juvenile justice system. This ten-year limit is not applicable to those subject to lifetime registration; these offenders must register for life regardless of when they were released from confinement, convicted, or adjudicated delinquent. If the offender leaves Minnesota or is no longer working or attending school in Minnesota, the offender is no longer subject to Minnesota's notification law. **Minn. Stat. § 243.166, subd. 1**

² Under section 609.108, a predatory crime is a felony violation for first-, second-, or third-degree murder; manslaughter in the first or second degree; assault in the first, second, or third degree; simple or aggravated robbery; kidnapping; false imprisonment; first-, second-, third-, or fourth-degree criminal sexual conduct; incest; witness tampering; arson in the first degree; or first-degree burglary. **Minn. Stat. § 609.108, subd. 3.** Please see pages 3-4 for a discussion on the constitutionality of this law.

³ A "school" is any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education, that the person is enrolled in on a full-time or part-time basis. "Work" means employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

Individuals Civilly Committed Regardless of Whether Convicted for an Offense. A person must register under the law if the person was committed as a sexually dangerous person, sexual psychopath, or psychopathic personality under Minnesota Statutes 1992, section [526.10](#), or a similar law of another state or the United States, regardless of whether the person was convicted for an offense.

A person also must register under the law if:

- the person was charged with or petitioned for a specific offense listed in the predatory offender registration law or a similar law of another state or the United States;
- the person was found not guilty by reason of mental illness or mental deficiency after a trial for the offense, or found guilty but mentally ill after a trial for that offense; and
- the person was committed pursuant to a court commitment order.

[Minn. Stat. § 243.166, subd. 1.](#)

Individuals Who Commit Other Offenses. The predatory offender registration law also applies to certain individuals who commit a crime against the person that may not be included within the scope of the predatory offender registration law. This registration requirement applies if the person is convicted of a crime against the person and:

- the person was previously convicted of or adjudicated delinquent for an offense for which registration is currently required, but was not required to register for the offense because the registration requirements did not apply to the person at the time the offense was committed or at the time the person was released from imprisonment; **or**
- the person was previously required to register under the predatory offender registration law and has completed the registration requirements.

A crime against the person is defined to mean certain crimes involving firearms by persons ineligible to possess firearms; first-, second-, and third-degree murder; manslaughter in the first and second degree; first-, second-, third-, and fifth-degree (gross misdemeanor and felony) assault; gross misdemeanor and felony domestic assault; use of drugs to facilitate crime; aggravated robbery in the first degree; kidnapping, false imprisonment; felony fifth-degree criminal sexual conduct; tampering with a witness in the first degree; burglary in the first degree; gross misdemeanor indecent exposure; and any felony-level violation of a crime committed for the benefit of a gang, malicious punishment of a child, or harassment. The definition includes violations of these Minnesota laws and violations of similar laws of other states or the United States.

**Notice to Offender of
Duty to Register**

The court must inform a person who is required to register of the duty to register and require the person to read and sign a form stating that the duty of the person to register under this section has been explained. The court also must inform the person that, if the person fails to comply with the registration requirements, information about the offender may be made available to the public through electronic, computerized, or other accessible means. The court lacks authority to modify the person's duty to register. The court must forward the signed predatory offender registration form, the complaint, and sentencing documents to the Bureau of Criminal Apprehension (BCA).

If the court does not notify the person of the registration requirement, the assigned corrections agent shall notify the person of the registration requirements. If the person is required to register following release from civil commitment, the treatment facility must notify the person of the registration requirements, obtain the required registration information, and forward the information to the BCA. [Minn. Stat. § 243.166, subd. 2.](#)

The person's corrections agent, or if the person does not have an assigned corrections agent, the law enforcement authority with jurisdiction in the area of the person's residence must notify the person of the obligation to register in another state if the person works or attends school there. [Minn. Stat. § 243.166, subd. 3.](#)

Initial Registration Requirements

The initial registration must include a written statement signed by the person giving information required by the BCA, a fingerprint card, and a photograph of the person taken at the time of the person's release from incarceration, or if the person was not incarcerated, at the time the person initially registered. The registration information also must include a written consent form signed by the person allowing a treatment facility to release information to law enforcement about the person's admission to, or residence in, a treatment facility.

An individual also must provide the following information to the corrections agent or law enforcement authority:

- the address of the person's primary residence;⁴
- the addresses of all the person's secondary Minnesota residences, including all residences used for residential or recreational purposes;⁵
- the addresses of all Minnesota property owned, leased, or rented by the person;
- the addresses of all locations where the person is employed;
- the addresses of all residences where the person resides while attending school; and
- the year, model, make, license plate number, and color of all motor vehicles⁶ owned or regularly driven by the person.

⁴ "Primary residence" means any place where the person resides longer than 14 days or that is deemed a primary residence by the person's corrections agent, if one is assigned to the person. [Minn. Stat. § 243.166](#), subd. 4a.

⁵ "Secondary residence" means any place where the person regularly stays overnight when not staying at the person's primary residence and includes, but is not limited to (1) the person's parent's home if the person is a student and stays at the home at times when the person is not staying at school, including during summer months; and (2) the home of someone with whom the person has a minor child in common where the child's custody is shared. [Minn. Stat. § 243.166](#), subd. 4a.

⁶ Motor vehicle means "every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks." [Minn. Stat. § 169.01](#), subd. 2. Motor vehicles therefore do not include jet skis, snowmobiles, or other similar vehicles.

An individual must notify law enforcement at least five days before living at a new primary address. An individual must report the other information noted above within five days of the time it becomes applicable. The individual must immediately inform law enforcement when the information is no longer applicable. [Minn. Stat. § 243.166, subd. 4a.](#)

The registration information for a person who is required to register due to court commitment as a sexually dangerous person or sexual psychopathic personality must also include the person's offense history and documentation of treatment received during the person's confinement. This document is limited to a statement of how far the person progressed in treatment during confinement. [Minn. Stat. § 243.166, subd. 4.](#)

Ongoing Registration Requirements

A person must continue to update his or her assigned corrections agent or the law enforcement agency with which he or she currently is registered of changes in primary and secondary addresses and other information required to be provided. The person must immediately notify the agent or agency when any of the information provided is no longer valid. If possible, the person also must provide the agent or agency at least five days' notice before a person starts living at a new primary address.

If the person will be living in a new state and that state has a registration requirement, he or she must also give written notice of the new address to the designated registration agency in the new state.

A person who is required to register because of working or attending school in Minnesota must register with the law enforcement agency that has jurisdiction in the area where the person works or attends school. This registration must occur within five days of beginning employment or school. The person must provide the address of the school or the location where he or she is employed.

A person who is required to register in Minnesota who works or attends school outside of Minnesota must register in the state where he or she works or attends school.

The corrections agent or law enforcement agency may require a person who is required to register to appear for a photograph. The agent or agency must forward the photograph to the BCA. [Minn. Stat. § 243.166, subs. 3 and 4a.](#)

Address Verification

Once each year, within 30 days of the anniversary date of the person's initial registration, the BCA must mail a verification form to the individual's last reported address, except for those offenders who are required to register due to court commitment as a sexually dangerous person or sexual psychopathic personality. For these offenders, the BCA must mail a verification form to the offender four times per year. The verification form must inform the offender that, if the form is not returned as required, information about the offender may be made available to the public. If the person has not signed a consent form for release of information by a treatment facility, such a form must be sent to the offender with the verification form. The person must mail the signed verification form back to the BCA within ten days after receipt of the form, stating on the form his or her current and last address. If applicable, the offender also must sign and return the consent form. [Minn. Stat. § 243.166, subd. 4.](#)

In addition, although not required by law, many law enforcement agencies routinely send peace officers to the primary address provided by the offender to ensure the offender is living there.

Sharing of Registration Information

A corrections agent or law enforcement agency receiving the initial registration documents must forward the registration information to the BCA. The BCA must then determine whether the person has registered with the law enforcement agency where the person resides. If the person has not registered, the BCA must send a copy of the registration to the law enforcement agency. [Minn. Stat. § 243.166, subd. 3.](#)

A corrections agent or law enforcement agency receiving written notification of a new primary or secondary address must forward this information to the BCA within two business days after receipt of the information. The BCA must, if it has not already been done, give the new address to the law enforcement authority with primary jurisdiction in the community where the person will reside. If the person is leaving the state, the BCA must notify the registration authority in the new state of the new address. [Minn. Stat. § 243.166, subd. 3.](#)

In addition, the BCA must maintain a computerized data system of individuals who are required to register. This data system must indicate the time period an offender is required to register and list the offender's addresses. The information must be maintained in a manner that ensures it is readily available to law enforcement. [Minn. Stat. § 299.093.](#)

**Beginning of
Registration Period**

A person must register with the person's corrections agent as soon as the agent is assigned to him or her, which occurs upon release from incarceration, or if the person is not incarcerated, at the time he or she is placed on some form of release. If the offender does not have an assigned corrections agent or is unable to locate the assigned corrections agent, the offender must register with the law enforcement agency with jurisdiction in the area of the offender's residence. [Minn. Stat. § 243.166, subd. 3.](#)

**End of Registration
Period**

Except for those persons subject to lifetime registration (discussed below), a person who is required to register is subject to the law for ten years from the time he or she initially registered in connection with the offense, or until the probation, supervised release, or conditional release period expires, **whichever occurs later**. For individuals who have been civilly committed, the ten-year registration period does not include the period of commitment. The commissioner may add five years to the end of an offender's registration period if he or she fails to register a change in residence.

In addition, a new ten-year registration period applies to a person subsequently incarcerated for a violation of supervised release, conditional release, or probation for the offense for which he or she is required to register or any new offense. These individuals must continue to register until ten years have elapsed since they were last released from incarceration, or until their probation, supervised release, or conditional release expires, whichever occurs later. [Minn. Stat. § 243.166, subd. 6.](#)

Lifetime Registration

Lifetime registration is required for three categories of individuals.

- **Recidivists.** This category includes a person convicted of or adjudicated delinquent for any offense for which registration is required, if the person has a prior conviction or adjudication for an offense where registration was or would have been required under the law. For the purpose of determining whether the person is a recidivist, the law includes an offense of another state or a federal offense similar to the offenses for which registration is required under Minnesota law.

- **Individuals Who Commit Aggravated Offenses.** This category includes a person who commits a sexual act, including, but not limited to penetration, with a victim of any age through the use of force or the threat of serious violence and a person who commits a sexual act, including but not limited to penetration, with a victim under the age of 13, regardless of whether the offense is committed under Minnesota law, federal law, or the law of some other state. This registration requirement applies only to adults, juveniles who have been certified as adult, extended jurisdiction juveniles, and juveniles who cause the death of a victim while committing certain criminal sexual conduct offenses.
- **Sexual Predators.** This category includes a person who is required to register following commitment as a sexual psychopathic personality or sexually dangerous person under Minnesota law or a similar law of another state or the United States.

**Release of Information
on Noncompliant
Offenders**

In certain circumstances, the BCA may make information public about an offender who is out of compliance with the registration law. The offender must be out of compliance for 30 days or longer for failure to provide the addresses of his or her primary and secondary residences. If the offender is 16 years of age or older and out of compliance, information about him or her may be made available to the public through electronic, computerized, or other accessible means. The amount and type of information disclosed must be limited to the information necessary for the public to assist law enforcement in locating the offender. The BCA is immune from criminal or civil liability based upon the accuracy or completeness of any information made public, if the BCA acts in good faith.

An offender who comes into compliance with the registration law after the BCA discloses information about him or her may send a written request to the BCA to request that the information be treated as private data. The BCA must review the request and respond. An offender also may challenge the accuracy or completeness of the data. [Minn. Stat. § 243.166, subd. 7a.](#)

Penalties for Violating Registration Law

A person who knowingly violates any of the provisions of the registration law or who intentionally provides false information to a corrections agent, law enforcement authority, or the BCA is guilty of a five-year felony. The court must commit the person to the Commissioner of Corrections for not less than one year and one day for a first offense and not less than two years for a subsequent offense. A prosecutor may move to have the person sentenced without regard to the mandatory minimum. The court may sentence the person without regard to the mandatory minimum on the prosecutor's motion or the court's own motion, but such a sentence is a departure from the sentencing guidelines. [Minn. Stat. § 243.166, subd. 5.](#)

Registration of Offenders from Other States

An offender who is on probation or parole in another state and who enters the state under a reciprocal agreement under the interstate compact for the supervision of parolees and probationers may enter the state only on the condition that the offender agrees to register under the law while living in Minnesota. Offenders who are not on probation or parole must also register under the law, but there is no tracking system for these offenders in Minnesota until they first register under the law. [Minn. Stat. § 243.166, subd. 9.](#)

Data Classification of Registration Information

In general, information obtained through the registration requirements of this section is private data, which means the data are not public, but are accessible to the subject of the data. Exceptions exist for disclosure of data on certain individuals who are out of compliance with the registration law, for community notification purposes, and for the purpose of the BCA's maintenance of a database of registered predatory offenders. [Minn. Stat. §§ 13.02, subd. 12; 243.166, subd. 7.](#) The information may be used only for law enforcement purposes, and information on adults and juveniles may be maintained together. [Minn. Stat. § 243.166, subd. 4.](#)

Community Notification Law

Individuals Subject to Community Notification

All predatory offenders are subject to the community notification law. A predatory offender is a person who is required to register under the predatory offender registration law, except for those individuals who are required to register based solely on delinquency adjudications. [Minn. Stat. § 244.052, subd. 1\(4\).](#)

Determining an Offender's Risk Level

An end-of-confinement review committee is responsible for determining an offender's risk level, which in turn determines the level of community notification that will occur. The end-of-confinement review committee is a standing committee at each state correctional facility and at each state treatment facility where predatory offenders are confined. The committee is appointed by the Commissioner of Corrections or Human Services, as appropriate, and consists of the following:

- the chief executive officer or head of the correctional or treatment facility where the offender is currently confined, or the person's designee;
- a law enforcement officer;
- a treatment professional who is trained in the assessment of predatory offenders;
- a caseworker experienced in supervising predatory offenders; and
- a victim services professional.

These committee members serve two-year terms. The chief executive officer or head of the facility or designee acts as chair of the committee. [Minn. Stat. § 244.052, subd. 3.](#)

The End-of-Confinement Review Committee

The Commissioner of Corrections must convene the end-of-confinement review committee at least 90 days before a predatory offender is released from confinement. If, however, the offender is received for confinement with fewer than 90 days remaining in his or her sentence, the offender's risk is assessed at the first regularly scheduled end-of-confinement review committee that meets after the committee receives the documentation necessary to conduct the risk assessment. The Commissioner of Corrections must make reasonable efforts to ensure that the offender's risk is assessed and a risk level is assigned or reassigned at least 30 days before the offender's release date. [Minn. Stat. § 244.052, subd. 3.](#)

Others Involved in the Risk Assessment

The offender receives notice and has a right to appear and present information at the meeting. In addition, the law enforcement agency responsible for the charge resulting in the offender's confinement is notified of the time and place of the meeting. The law enforcement agency may provide written material relevant to the offender's risk level to the chair of the committee. [Minn. Stat. § 244.052, subd. 3.](#)

Determining the Risk Level

The committee assesses the risk posed by an offender who is about to be released from confinement on a case-by-case basis. The committee has access to various data, including medical data, court services data, corrections data, and criminal history data. It considers various risk factors to determine the offender's risk of reoffending. These risk factors include:

- **the seriousness of the offense should the offender reoffend**, including the degree of likely force or harm, the degree of likely physical contact, and the age of the likely victim;
- **the offender's prior offense history**, including the relationship of prior victims to the offender, the number of prior offenses or victims, the duration of the offender's prior offense history, the length of time since his or her last prior offense while he or she was at risk to commit offenses, and the offender's prior history of other antisocial acts;
- **the offender's characteristics**, including response to prior treatment efforts and history of substance abuse;
- **the availability of community support to the offender**, including the availability and likelihood that he or she will be involved in therapeutic treatment, the availability of residential supports, familial and social relationships and the support offered from these relationships, and lack of education or emotional stability;
- **whether the offender has indicated or credible evidence in the record indicates that the offender will reoffend if released into the community**; and
- **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.

[Minn. Stat. § 244.052, subd. 3.](#)

A risk assessment scale is used to assign weights to these risk factors and to determine the risk level to which offenders with various risk assessment scores will be assigned. This scale was developed by the Commissioner of Corrections, with input by county attorneys, treatment professionals, law enforcement officials, and probation officers. [Minn. Stat. § 244.052, subd. 2.](#)

The Various Risk Levels

There are three risk levels, as follows:

- **Level I** offenders have a risk assessment score that indicates a low risk of reoffense.
- **Level II** offenders have a risk assessment score that indicates a moderate risk of reoffense.
- **Level III** offenders have a risk assessment score that indicates a high risk of reoffense.

[Minn. Stat. § 244.052, subd. 3.](#)

Community Notification for Various Risk Levels

The type of community notification that occurs depends on the risk level to which an offender has been assigned. The depth and breadth of the disclosure depends upon the level of danger posed by the offender, his or her pattern of offending behavior, and the need of community members for information to enhance individual and community safety. In making the notification, a law enforcement agency must not disclose the identity or any identifying characteristics of the victims of or witnesses to the offender's offenses.

Notification for the three levels is as follows:

Level I Offenders. The law enforcement agency may maintain information about the offender within the agency and disclose it to other law enforcement agencies. The law enforcement agency also may disclose the information to any victims or witnesses to the offense committed by the offender. The agency must disclose information to victims of the offense who have requested disclosure. The agency also must disclose information to adult members of the offender's immediate household. [Minn. Stat. § 244.052, subs. 1 and 4.](#)

Level II Offenders. The law enforcement agency may disclose the same information it may disclose on Level I offenders and it also may disclose information to agencies and groups the offender is likely to encounter. These agencies and groups include the staff members of public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender. The purpose of this notification is to secure these institutions and to protect individuals in the care of these institutions while they are on or near the institution's premises. The agency also may disclose information to individuals the agency believes are likely to be victimized by the offender based on the offender's pattern of offending or victim preference. [Minn. Stat. § 244.052, subd. 4.](#)

Level III Offenders. The law enforcement agency must disclose the information to the persons and entities who may receive notice about Level I and II offenders. In addition, the agency must disclose information to other members of the community whom the offender is likely to encounter, unless the agency determines that public safety would be compromised by the disclosure or that a more limited disclosure is necessary to protect the identity of the victim. [Minn. Stat. § 244.052, subd. 4.](#)

A law enforcement agency disclosing information to the public about Level III offenders must forward the information disclosed to the Commissioner of Corrections. The Commissioner of Corrections must create and maintain an Internet web site to post the information received from the law enforcement agency. This information must be updated in a timely manner to account for address changes. The information must be available during the time the offender is subject to notification as a Level III offender. [Minn. Stat. § 244.052, subs. 4 and 4a.](#)

Caveat: A law enforcement agency may not make the disclosures permitted or required for Level II and Level III predatory offenders if the offender is placed or resides in a residential facility. In these cases, notification is delayed until shortly before the offender is released from the residential facility. [Minn. Stat. § 244.052, subd. 4.](#)

Notification Language

City councils may adopt policies addressing when information disclosed under the law must be disclosed in languages in addition to English. The policies may designate whether the information shall be disclosed orally, in writing, or both. Policies may provide for different approaches based upon the prevalence of non-English languages in different neighborhoods. [Minn. Stat. § 244.052, subd. 4.](#)

Timing of Notification	A law enforcement agency that discloses information must make a good faith effort to make the notification within 14 days of receiving a confirmed address from the Department of Corrections indicating that the offender will reside at the address listed. Minn. Stat. § 244.052, subd. 4.
Length of Community Notification	The community notification law applies during the entire time an offender is required to register under the predatory offender registration law. Minn. Stat. § 244.052, subd. 4. (See page 4 , “End of Registration Period”)
Communicating the Risk Level Determination	The end-of-confinement review committee must prepare a risk assessment report which specifies the offender’s risk level and the reasons for the committee’s decision. The committee must give this report to the offender and to the law enforcement agency where the offender will reside at least 60 days before the offender is released from confinement. If, however, the risk assessment is delayed because the offender was initially confined in a state correctional facility with fewer than 90 days remaining on his or her sentence, the report must be given to the offender and law enforcement as soon as it is available. Minn. Stat. § 244.052, subd. 3.
Other Information Communicated to Law Enforcement	<p>At least 60 days before a predatory offender is released from confinement, the Department of Corrections or Department of Human Services must give the law enforcement agency that investigated the offender’s crime, or where relevant, the law enforcement agency with primary jurisdiction where the offender was committed, all relevant information the departments have on the offender. This information includes information on risk factors in the offender’s history.</p> <p>In addition, within five days after receiving the offender’s approved release plan, the appropriate department must give the law enforcement agency with primary jurisdiction where the offender plans to live all relevant information the department has concerning him or her, including information on risk factors in the offender’s history. The offender’s risk level assignment must also be communicated with this information. If the risk level assignment was delayed because the offender was initially confined in a state correctional facility with fewer than 90 days remaining on his or her sentence, the appropriate department must communicate this information to the law enforcement agency within five days of the risk level assignment or reassignment. Minn. Stat. § 244.052, subd. 5.</p>

Notice of an Offender's Release

The Commissioner of Corrections must send written notice of the impending release of a predatory offender to the sheriff of the county and the police chief of the city in which the inmate will reside or in which placement will be made in a work release program. This notification must occur at least 60 days before release of the offender. **Minn. Stat. § 244.053, subd. 1.**

The following individuals also must be notified of an offender's impending release:

- the sheriff of the county where the offender was convicted;
- the victim of the crime or a deceased victim's next of kin if the victim or next of kin request this notice in writing;
- any witnesses who testified against the inmate in any court proceeding, if the witness requests the notice in writing; and
- any person specified in writing by the prosecuting attorney.

The notice sent to the victim or victim's next of kin must inform the person of the right to request and receive additional information about the offender, as authorized by the community notification law. If the victim or witness is under the age of 16, the notice required by this section must be sent to the parents or legal guardian of the child. **Minn. Stat. § 244.053, subds. 1 and 2.**

Reassessment of the Risk Level Determination

Yes. Either the law enforcement agency in the area where the offender will reside or the offender's corrections agent may request a reassessment of the risk level. Upon such a request, the commissioner may reconvene the end-of-confinement review committee. In requesting such a reassessment, the law enforcement agency which was responsible for the charge resulting in confinement or the agent shall list the facts and circumstances arising after the committee's determination or the facts and circumstances known to law enforcement or the agent but not considered by the committee.

The law enforcement agency or corrections agent must request the reassessment within 30 days of receipt of the report identifying the offender's risk level. A corrections agent, in consultation with the chief law enforcement officer in the area where the offender plans to reside, may request a review of the offender's risk level at any time if substantial evidence (as described by law) exists that the offender's risk level should be reviewed by an end-of-confinement review committee.

Upon review of the request, the committee may reassign an offender to a different risk level and, if he or she is assigned to a higher risk level, the offender has the right to seek administrative review of the decision. **Minn. Stat. § 244.052, subd. 3.**

**Administrative Review
of Risk Level
Assessment**

At the time the committee provides the offender its risk assessment report, including the risk level to which he or she has been assigned, the committee must inform the offender of the availability of administrative review of its decision. The right to administrative review exists for those offenders assigned to risk Level II or III. **Minn. Stat. § 244.052, subd. 3.**

An offender must seek review within 14 days of receiving notice of the committee's risk level decision by notifying the chair of the committee. Upon receiving this request, the chair must notify the offender; the victims of the offense who have requested disclosure; the law enforcement agency that investigated the crime or, where relevant, the law enforcement agency having primary jurisdiction where the offender was committed; the law enforcement agency with jurisdiction where the offender expects to reside (if the release plan has been approved by the Department of Corrections); and any other individuals the chair selects.

A request for a review hearing does not interfere with or delay the notification process under the law, unless the administrative law judge orders otherwise for good cause shown.

An offender who requests a hearing must be given a reasonable time to prepare for the hearing. The hearing is conducted by an administrative law judge. The offender bears the burden of proving by a preponderance of the evidence that the risk assessment determination was erroneous. The attorney general or a designee must defend the committee's determination. The offender has the right to be present and be represented by counsel at the hearing, to present evidence, and to call and cross-examine witnesses. The judge may seal any portion of the record of the hearing to the extent necessary to protect the identity of a victim of or witness to the offense.

