

## Minnesota's Civil Commitment System for Sexually Dangerous Persons

### *When is a sex offender subject to civil commitment?*

Any person who has been determined by a court to be a “sexually dangerous person” may be involuntarily committed as a patient in a secure hospital. [Minn. Stat. § 253B.185](#). There are three elements to the definition of “sexually dangerous person.”

- First, the person must have engaged in a course of “harmful sexual conduct” in the past. Sexual conduct is “harmful” if it creates a substantial likelihood of causing serious physical or emotional harm to another person.
- Second, the person must manifest a sexual, personality, or other mental disorder or dysfunction.
- Third, as a result of this mental disorder or dysfunction, the person must be likely to engage in future acts of harmful sexual conduct.

The law does not require proof that the person is **unable** to control his or her sexual impulses; it is sufficient that the person faces difficulty in controlling behavior, and there is a likelihood of future harmful sexual conduct due to the person’s mental disorder or dysfunction. [Minn. Stat. § 253B.02](#), subs. 7a and 18c.

### *Must there be a prior criminal offense?*

No. Prior criminal convictions are not required in order to civilly commit a person under this law, but the person almost always has prior convictions. [Minn. Stat. §§ 253B.02](#), subd. 18c; [253B.18](#), subd. 1; and [253B.185](#).

### *How does the state ensure appropriate persons are referred for commitment?*

Minnesota law requires courts sentencing offenders who have committed felony-level criminal sexual conduct crimes to make a preliminary determination as to whether civil commitment of the person as a sexually dangerous person would be appropriate. [Minn. Stat. § 609.1351](#).

Similarly, the Commissioner of Corrections must make a preliminary determination concerning the appropriateness of civil commitment before releasing certain predatory offenders from state prison. The commissioner must forward the preliminary determination to the county attorney in the county where the offender was convicted. This information must be forwarded no later than 12 months before the inmate’s release date or as soon as is practicable if the inmate is incarcerated for fewer than 12 months. The law then directs the county attorney to proceed to assess the case and determine whether civil commitment proceedings should be initiated. [Minn. Stat. §§ 244.05](#), subd. 7; and [253B.185](#), subd. 8.

<b><i>Where are persons held pending resolution of a civil commitment petition?</i></b>	A person subject to a civil commitment petition shall be held in a state-run secure treatment facility unless the person elects to be held in a Department of Corrections facility or a county jail. Regardless of where the person is held, the precommitment cost of housing the offender is shared 50/50 between the state and the county seeking commitment. The state only pays its share if the legislature appropriates funds for the purpose. <a href="#">Minn. Stat. §§ 253B.045</a> , subd. 1a; and <a href="#">253B.185</a> , subd. 5.
<b><i>Where are civil commitment proceedings heard?</i></b>	The county attorney initiates a civil commitment proceeding under this law in the county where the proposed patient resides or is present. If the proposed patient is an inmate of a state prison, the petition may be filed in the county where the proposed patient was convicted. <a href="#">Minn. Stat. § 253B.185</a> .
<b><i>What rights and procedures govern commitment hearings?</i></b>	The hearing on the petition is a civil proceeding and is governed by the same procedures and rules as a proceeding to commit a person as “mentally ill and dangerous.” These procedures, among other things, guarantee the proposed patient’s right to be represented by counsel at public expense, if necessary, and require the need for commitment to be proven by clear and convincing evidence. <a href="#">Minn. Stat. §§ 253B.18</a> ; and <a href="#">253B.185</a> .
<b><i>Where are those civilly committed housed?</i></b>	Sexually dangerous persons are committed to the custody of the Commissioner of Human Services and are placed in a secure treatment facility in Moose Lake, Minnesota. <a href="#">Minn. Stat. §§ 246B.02</a> ; and <a href="#">253B.185</a> , subd. 1.
<b><i>For how long is a person committed?</i></b>	During the 60-day period following the initial commitment decision by the court, the treatment facility prepares a treatment report and the court holds another hearing to decide whether the commitment decision should be made final. If the court finalizes its commitment decision at the review hearing, the person is committed to the Commissioner of Human Services’ custody for an indeterminate period of time. <a href="#">Minn. Stat. § 253B.18</a> .
<b><i>How can the terms of the civil commitment be altered?</i></b>	The decision to transfer the person to a more or less secure treatment facility or to discharge a sexually dangerous person from civil commitment is made by a three-judge panel with input from a special review board panel appointed by the Commissioner of Human Services. The review board consists of three members who are experienced in the field of mental illness and must include a psychiatrist and an attorney. A patient may file a petition for transfer, discharge, or provisional discharge with the special review board panel after six months have elapsed since the person was first committed (and all appeals are exhausted) and may not file additional petitions with the board unless six months have elapsed since the last petition is finally resolved, including appeals. Following the hearing and based on factors outlined in statute and evidence presented at the hearing, the panel makes written findings and recommendations on the petition and submits them to a judicial review panel, and everyone entitled to receive notice of the petition. The final decision on transfer or discharge rests with the judicial panel. <a href="#">Minn. Stat. §§ 253B.18</a> , subd. 4c; <a href="#">253B.185</a> , subd. 9; and <a href="#">253B.19</a> .

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