

# HOUSE RESEARCH

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## Information Brief

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

This information brief describes Minnesota laws applicable to sex offenders and predatory offenders. The information brief consists of three 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. The last part summarizes a law enacted in 2000 mandating the Commissioner of Corrections to conduct a comprehensive study of the state's current criminal and civil processes for managing sex offenders. A report on this study is due December 15, 2000.

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## Criminal Provisions

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### What are the elements of criminal sexual conduct?

Minnesota law classifies the crime of 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.

### What are the criminal penalties for criminal sexual conduct?

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 following chart 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)
<b>1<sup>st</sup> degree</b> criminal sexual conduct	Sexual penetration; certain sexual contact with victim under 13 years old	30 years; \$40,000 fine	86 months in prison for penetration; 48 months in prison for contact with victim under age 13. Effective 8/1/00, 144 months in prison for all violations
<b>2<sup>nd</sup> degree</b> criminal sexual conduct	Sexual contact	25 years; \$35,000 fine	48 months in prison; 21 months stayed sentence for "statutory rape"*
<b>3<sup>rd</sup> degree</b> criminal sexual conduct	Sexual penetration	15 years; \$30,000 fine	48 months in prison; 18 months stayed sentence for "statutory rape"*
<b>4<sup>th</sup> degree</b> criminal sexual conduct	Sexual cont act	10 years; \$20,000 fine	21 months stayed sentence; 12 months stayed sentence for "statutory rape"*
<b>5<sup>th</sup> degree</b> criminal sexual conduct	Sexual contact; certain lewd conduct	One year; \$3,000 fine (gross misdemeanor). Certain repeat violations are punishable by five 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 a statutory term.

### What mandatory minimum criminal penalties apply to criminal sexual conduct offenders?

There are a number of mandatory minimum criminal penalties that apply to certain criminal sexual conduct offenses, particularly when the offense is the defendant's second or subsequent offense. These mandatory sentencing provisions are described below.

**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 factfinder 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. **Minn. Stat. § 609.108.**

**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).**

### **Are there mandatory minimum fines for repeat and violent predatory offenders?**

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. 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.**

**What other mandatory sentencing provisions apply to offenders convicted of criminal sexual conduct?**

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 conditional release period runs concurrent 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. Effective July 1, 2000, this requirement also applies to persons convicted of other violent crimes listed in the law. **Minn. Stat. § 609.117; Laws 1999, ch. 216, art. 2, §§ 7 to 9.**

## **Civil and Regulatory Provisions**

### **Predatory Offender Registration Law**

#### **Who must register under the predatory offender registration law?**

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.

The registration law specifies that, if an offender is incarcerated or on any form of supervision for an offense for which registration is required as of April 4, 2000, the offender is subject to the registration law as it currently exists. The date of the offender's conviction is irrelevant. This provision in the law does not change the obligation of any offender to register who began to register before April 4, 2000.

**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 609.108<sup>1</sup> 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.**

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<sup>1</sup> 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.**

**Offenders Who Commit Offenses under U.S. 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<sup>2</sup> and 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 that triggers registration. This requirement also applies to juvenile offenders whose cases are handled in the juvenile justice system. **Minn. Stat. § 243.166, subd. 1.**

**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 of the United States, regardless of whether the person was convicted for an offense.

A person also must register under the law if:

- if the person was charged with or petitioned for a specific offense listed in the predatory offender registration law or the 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

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<sup>2</sup> 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.

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) assault; gross misdemeanor and felony domestic assault; use of drugs to facilitate crime; aggravated robbery in the first degree; kidnaping, 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.

#### **Who notifies an offender of the obligation to register under the law?**

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 shall 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.**



### **What must the initial registration include?**

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;
- the addresses of all the person's secondary residences, including all residences used for residential or recreational purposes;
- the addresses of all 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 vehicles owned or regularly driven by the person.

An individual must report the above information 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.**

### **What continuing obligations do individuals have to satisfy the requirements of the registration law?**

A person must continue to update the person's assigned corrections agent or the law enforcement agency with which the person currently is registered of changes in the person's living address and other information required to be provided. This notice must be provided at least five days before the person starts living at the new address.

If the person will be living in a new state and that state has a registration requirement, the person 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 the person is working or attending school in Minnesota shall 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 the person is employed.

A person who is required to register in Minnesota who works or attends school outside of Minnesota shall register in the state where the person 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, subd. 3.**

**What ongoing attempts are made to verify that a person is still living at the address for which the person is registered?**

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 last reported address of the person, 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 the person's current and last address. If applicable, the offender also must sign and return the consent form. **Minn. Stat § 243.166, subd. 4.**

**How is registration information shared among law enforcement and correctional agencies?**

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 living 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.**

### **When does the registration period begin?**

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

### **When does the registration period expire?**

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 the person initially registered in connection with the offense, or until the person's 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 require a person to continue to register for an additional period of five years if the person 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 the person is required to register or any new offense. These individuals must continue to register until ten years have elapsed since the person was last released from incarceration, or until the person's probation, supervised release, or conditional release expires, **whichever occurs later**. **Minn. Stat. § 243.166, subd. 6.**

### **Who is subject to 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 who has a prior conviction or adjudication for such an offense. For the purpose of determining whether the person is

a recidivist, the law includes an offense of another state or federal 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 12, regardless of whether the offense is committed under Minnesota law, federal law, or the law of some other state.
- **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.

### **What happens if an offender is out of compliance with the registration law?**

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 the offender's primary and secondary residences. If the offender is 16 years of age or older and out of compliance, information about the offender 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 the offender 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.**

### **What penalty applies to a person's failure to meet the registration requirements?**

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.**

### **How does Minnesota apply the registration law to predatory 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 the offender is 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.

### **How are data classified under the predatory registration law?**

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 of 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**

### **Which offenders are subject to the community notification law?**

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).

### **Who determines what type of community notification will take place for each offender?**

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.**

### **When does the end-of-confinement review committee meet?**

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 the offender's 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.**

### **Who else participates in the end-of-confinement review committee's 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.**

### **How does the end-of-confinement review committee determine an offender's 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 of the offender, the number of prior offenses or victims, the duration of the offender's prior offense history, the length of time since the offender's last prior offense while the

offender was at risk to commit offenses, and the offender's prior history of other antisocial acts;

- **the offender's characteristics**, including the offender's response to prior treatment efforts and the offender's history of substance abuse;
- **the availability of community support to the offender**, including the availability and likelihood that the offender will be involved in therapeutic treatment, the availability of residential supports to the offender, the offender's familial and social relationships and the support offered from these relationships, and the offender's 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 shall 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.

### What do the various risk levels indicate?

There are three risk levels, as follows:

- **Level I** offenders are those offenders whose risk assessment score indicates a low risk of reoffense.
- **Level II** offenders are those offenders whose risk assessment score indicates a moderate risk of reoffense.
- **Level III** offenders are those offenders whose risk assessment score indicates a high risk of reoffense.

Minn. Stat. § 244.052, subd. 3.

### **What type of community notification occurs for the various 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, the offender's 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 shall 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.

**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 service 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.

**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 shall remain available during the time the offender is subject to notification as a Level III offender. **Minn. Stat. § 244.052, subds. 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.**



### **When does community notification occur?**

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.**

### **For how long is a predatory offender subject to the community notification law?**

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 11).

### **How does the end-of-confinement review committee communicate its risk level determination to the offender and to law enforcement?**

The 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 received for confinement with fewer than 90 days remaining on the offender's sentence, the report must be given to the offender and law enforcement as soon as it is available. **Minn. Stat. § 244.052, subd. 3.**

### **What information other than the risk level determination is communicated to law enforcement?**

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.

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 the offender, 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 accepted for confinement with fewer than 90 days remaining on the offender's 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.**

### **Who receives notice of an offender's impending 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 shall be sent to the parents or legal guardian of the child. **Minn. Stat. § 244.053, subds. 1 and 2.**

### **Is there a procedure for the end-of-confinement review committee to reconsider the risk level determination if additional information becomes available?**

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 risk assessment report. Upon review of the request, the committee may reassign an offender to a different risk level and, if the offender 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.**

**What recourse does an offender have if the offender objects to the end-of-confinement review committee's risk level assessment?**

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

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 offender's offense who have requested disclosure; the law enforcement agency that investigated the offender's 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 offender's offense.

After the hearing, the administrative law judge must issue a written decision upholding or modifying the review committee's decision. This decision must include the judge's reasons for the decision. The decision may be appealed to the courts through procedures set forth in the Administrative Procedures Act (chapter 14). Minn. Stat. § 244.052, subd. 6.

**Can a predatory offender request reassessment of the offender's risk level?**

Yes. An offender may ask the committee to reassess his or her risk level after three years have passed since the committee's initial assessment. The offender may renew the request once every two years following subsequent denials. In seeking reassessment, the offender must list the facts and circumstances that demonstrate that he or she no longer poses the same degree of risk to the community. An offender who is incarcerated may not request reassessment of the offender's risk level. Minn. Stat. § 244.052, subd. 3.

### **Are there any restrictions on where Level III offenders can live?**

The end-of-confinement review committee must determine whether residency restrictions shall be included in the conditions of a Level III offender's release based upon the offender's pattern of offending behavior. **Minn. Stat. § 244.052, subd. 3.** In addition, the agency responsible for the offender's supervision must take into consideration the proximity of the offender's residence to that of other Level III offenders when an offender is released from confinement or a residential facility and when the offender changes residence. To the extent feasible, the agency must mitigate the concentration of Level III offenders. **Minn. Stat. § 244.052, subd. 4a.**

### **How does the community notification law apply to offenders who are released from a federal correctional facility or some other state's correctional facility?**

The commissioner must 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 from another state's facility when the offender intends to reside in Minnesota. The committee must make reasonable efforts to apply the same timelines to these cases that apply to Minnesota cases. **Minn. Stat. § 244.052, subd. 3.**

### **How does the community notification law apply to offenders who enter Minnesota from another state following their release from confinement?**

The community notification law applies to offenders who are accepted from another state under a reciprocal agreement for supervision under the interstate compact. These offenders are not assigned a risk level, but are treated in a manner similar to how Level II offenders are treated. The probation or court services officer who is assigned to supervise the offender must provide written information of the terms and conditions of the offender's probation to:

- the victim of and any witnesses to the offense committed by the offender, if the victim or witness request this disclosure; and
- the chief law enforcement officer in the area where the offender resides or intends to reside.

The law enforcement officer, in consultation with the offender's probation officer, may provide all or part of this information to certain agencies or groups the offender is likely to encounter. These agencies and groups include public and private educational institutions, day care establishments, and establishments or organizations that primarily serve individuals likely to be victimized by the offender. This notice requirement does not apply while the offender resides in a residential facility with staff trained in the supervision of predatory offenders. **Minn. Stat. §§ 244.052, subd. 3; 244.10, subd. 2a.**

### **Can someone be held civilly or criminally liable for disclosing or failing to disclose information under the community notification law?**

Generally, no. A state or local agency or official, or a private organization or individual authorized to act on behalf of a state or local agency or official, is not civilly or criminally liable for *failing* to disclose information as permitted by the community notification law. In addition, these individuals and entities are not civilly or criminally liable for *disclosing* information as permitted by the community notification law, provided the information disclosed is consistent with the offender's conviction history. Immunity does not apply to disclosure of information relating to conduct for which the offender was not convicted. Minn. Stat. § 244.052, subd. 7.

## **Sexually Dangerous Persons Civil Commitment Law<sup>3</sup>**

### **Who may be civilly committed under this law?**

Any person who has been determined by a court to be a "sexually dangerous person" may be involuntarily committed under this law. Minn. Stat. § 253B.185.

### **Who comes within the definition of a sexually dangerous person?**

There are three elements to the definition of "sexually dangerous person."

- First, it must be demonstrated that the person has 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. Certain crimes are presumed to cause such harm, unless proven otherwise in a particular case. For example, felony-level criminal sexual conduct crimes are presumed to qualify as "harmful sexual conduct." Additionally, a number of other violent crimes are presumed to be "harmful sexual conduct" when they are motivated by the person's sexual impulses or are part of a pattern of behavior that has criminal sexual conduct as its goal. These crimes include murder, manslaughter, felony-level assault, robbery, kidnapping, false imprisonment, incest, witness tampering, arson, first-degree burglary of a dwelling, terroristic threats, and felony-level harassment and stalking.
- Second, it must be shown that the person has manifested a sexual, personality, or other mental disorder or dysfunction.

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<sup>3</sup> Minnesota law contains a second civil commitment law applicable to sexually dangerous persons, known as the "psychopathic personality" commitment law. It was enacted in the 1930s and has been replaced, from a practical standpoint, by the sexually dangerous persons civil commitment law. It remains on the books, however, because there are individuals in state treatment facilities who were originally committed pursuant to the older law and remain subject to that commitment. Minn. Stat. 1992, § 526.10.

- Third, it must be proven that, as a result of this mental disorder or dysfunction, the person is 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; rather, it is enough to establish the likelihood of future harmful sexual conduct due to the person's mental disorder or dysfunction. Minn. Stat. §§ 253B.02, subds. 7a and 18c.

**Are prior criminal convictions for criminal sexual conduct or other crimes required before a person can be civilly committed as a sexually dangerous person?**

Prior criminal convictions are not required in order to civilly commit a person under this law. However, the standard of proof required for involuntary commitment under this law is a stringent one (clear and convincing evidence) and may be difficult to meet, absent the type of strong proof of prior harmful sexual conduct that a prior conviction would provide. Minn. Stat. §§ 253B.02, subd. 18c; 253B.18, subd. 1; and 253B.185.

**Is any preliminary determination made when a sex offender is convicted or sent to prison that the civil commitment law may apply?**

Minnesota law requires that when a court sentences a person for a felony-level criminal sexual conduct crime, the court must make a preliminary determination as to whether the civil commitment of the person as a sexually dangerous person would be appropriate and must include this determination in its sentencing order. If the court determines that such a petition would be appropriate, it must forward its preliminary determination and any supporting documentation to the county attorney. Minn. Stat. § 609.1351.

Similarly, the Commissioner of Corrections is required to make the same type of preliminary determination concerning the appropriateness of civil commitment before releasing certain predatory offenders from state prison. This law applies when the sex offender has been classified by the commissioner as a "high risk" releasee under the commissioner's supervised release guidelines. If the commissioner determines that a petition may be appropriate, he or she must forward the preliminary determination, along with a summary of the written reasons for it, to the county attorney in the county where the offender was convicted. The law then directs the county attorney to proceed, under the civil commitment law, to assess the case and determine whether civil commitment proceedings should be initiated. Minn. Stat. § 244.05, subd. 7.

**Who initiates civil commitment proceedings?**

A civil commitment proceeding under this law is initiated by the county attorney and is filed 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.

Alternatively, the petition may be heard by a member of a specialized statewide panel of district judges established by the Minnesota Supreme Court to preside over commitment proceedings of sexually dangerous persons. Minn. Stat. § 253B.185.

### **What rights and procedures apply to civil commitment hearings?**

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 include, among other things, the proposed patient’s right to be represented by counsel at public expense, if necessary, and a requirement that the need for commitment be proven by clear and convincing evidence. Minn. Stat. §§ 253B.18; 253B.185.

### **If a person is civilly committed under this law, where is he or she placed?**

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 known as the Minnesota Sexual Psychopathic Personality Treatment Center. In order to obtain a less secure placement, the patient must prove, by clear and convincing evidence, that a less restrictive treatment program is available and is consistent with the patient’s treatment needs and the requirements of public safety. Minn. Stat. §§ 246B.02; 253B.185, subd. 1.

If the patient was in prison at the time of the civil commitment, the person must serve the criminal sentence first before being transferred to a treatment facility. If the person was civilly committed first and later is committed to the Commissioner of Corrections’ custody due to a criminal conviction or probation revocation, the person must be transferred from the treatment facility to state prison. Minn. Stat. § 253B.185, subd. 2.

### **How long does the civil commitment last?**

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. The indeterminate commitment lasts until the person can demonstrate that he or she is no longer dangerous or in need of treatment. Minn. Stat. § 253B.18.

### **Who decides whether to change the terms of or end the civil commitment of a sexually dangerous person?**

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 special review board panel

appointed by the Commissioner of Human Services. The panel consists of three members who are experienced in the field of mental illness. One member must be a psychiatrist and one member must be 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 may not file additional petitions with the board unless six months have elapsed since the last petition. A number of parties are entitled to be notified of and be present at the hearing on the petition, including the committing court and the county attorney of the committing county. 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 the Commissioner of Human Services. The final decision on transfer or discharge rests with the commissioner. Minn. Stat. § 253B.18, subs. 4c and 5.

## **Sex Offender Management Report**

In Laws 2000, chapter 359, the legislature mandated the Commissioner of Corrections to undertake a comprehensive review, in consultation with the a number of other agency heads, of the civil and criminal laws and procedures under which sex offenders currently are managed. The commissioner is directed to report findings and recommendations to the legislature by December 15, 2000.

The report must include a plan for the establishment of a sex offender policy and management oversight group to:

- monitor, review, and evaluate the state's system of responding to sexual offenses,
- identify system problems and identify solutions,
- provide research and analysis for state and local policymakers and criminal justice and corrections agencies, and
- recommend policies and best practices that will reduce sexual victimization and improve public safety in the most cost-effective manner possible.

The commissioner is directed to explore alternative models for the oversight group and recommend a structure that:

- provides for systemwide collaboration,
- includes experts in the assessment, sentencing, management, and treatment of sex offenders, and



- has adequate resources to accomplish long-range oversight of a complex system and effective support for policy decisions.

The commissioner's report also must analyze:

- the cases involving individuals who currently are civilly committed as sexually dangerous persons or as sexual psychopathic personalities;
- the cases of individuals who were referred by the Department of Corrections for possible civil commitment but who were not committed;
- the factors accounting for whether persons referred for commitment by the department were or were not civilly committed;
- the criminal sentences received by individuals in both groups, including why individuals did not receive sentences under the patterned sex offender sentencing law or the repeat sex offender sentencing law; and
- the supervision options being used for those individuals referred for commitment but not committed and, if possible, their outcomes, including recidivism.

Finally, the report must include an analysis by the Sentencing Guidelines Commission of sex offender sentencing practices over the last decade and of the implementation of laws authorizing or mandating increased sentences for sex offenders, including the factors involved in cases where the court failed to use the laws and any recommendations for improving their implementation.

### Appendix A

#### Elements of 1<sup>st</sup> and 3<sup>rd</sup> degree criminal sexual conduct crimes

<b>1<sup>st</sup> Degree Criminal Sexual Conduct</b> <b>(Minn. Stat. § 609.342)</b> <b>Sexual penetration and:</b>	<b>3<sup>rd</sup> Degree Criminal Sexual Conduct</b> <b>(Minn. Stat. § 609.343)</b> <b>Sexual penetration and:</b>
A victim <b>under 13 years old</b> if the actor is <b>more than</b> three years older than the victim (also applies to certain <b>sexual contact</b> )	A victim <b>under 13 years old</b> if the actor is <b>no more than</b> three years older than the victim
	A victim <b>at least 13 but younger than 16</b> if the actor is <b>more than</b> two years older
A victim <b>at least 13 but younger than 16</b> if the actor is <b>more than</b> four years older <b>and</b> uses a position of authority to make the victim submit	A victim <b>at least 16 but younger than 18</b> if the actor is <b>more than</b> four years older <b>and</b> uses a position of authority to make the victim submit
Circumstances at time of act caused victim to have reasonable <b>fear of imminent great bodily harm</b> to self or others	
Actor is armed with <b>dangerous weapon</b> and uses or threatens to use it to cause victim to submit	
Actor causes <b>personal injury</b> to victim <b>and either</b> actor uses force/coercion <b>or</b> victim is mentally impaired or incapacitated/physically helpless	Actor uses <b>force/coercion</b> <b>or</b> actor knows or should know victim is <b>mentally impaired or incapacitated/physically helpless</b>
Actor is aided by accomplice <b>and either</b> accomplice uses force/coercion <b>or</b> accomplice is armed with dangerous weapon and uses or threatens to use it to cause victim to submit	
A victim <b>under 16 years old</b> and the actor has a “ <b>significant relationship</b> ” with the victim	A victim <b>at least 16 but younger than 18</b> and the actor has a “ <b>significant relationship</b> ” with the victim
A victim <b>under 16 years old</b> , the actor has a “ <b>significant relationship</b> ” with the victim, <b>and</b> any of the following circumstances exists: force/coercion, personal injury, or sexual abuse involved multiple acts committed over extended time period	A victim <b>at least 16 but younger than 18</b> , the actor has a “ <b>significant relationship</b> ” with the victim, <b>and</b> any of the following circumstances exists: force/coercion, personal injury, or sexual abuse involved multiple acts committed over extended time period
	Actor is <b>psychotherapist</b> , victim is patient and act occurred during therapy session or during the ongoing therapy relationship, victim is former patient and is emotionally dependent on therapist, or victim is patient or former patient and act occurred by means of therapeutic deception
	Actor accomplishes act by means of <b>deception or false representation</b> that it is for a <b>bona fide medical purpose</b>
	Actor is or purports to be <b>member of clergy</b> , victim is not married to actor, and <b>either</b> act occurred during spiritual advice meeting <b>or</b> during a time when victim was meeting with actor on ongoing basis for spiritual advice

### Elements of 2<sup>nd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> Degree Criminal Sexual Conduct Crimes

2 <sup>nd</sup> Degree Criminal Sexual Conduct (Minn. Stat. § 609.344) Sexual contact and:	4 <sup>th</sup> Degree Criminal Sexual Conduct (Minn. Stat. § 609.345) Sexual contact and:	5 <sup>th</sup> Degree Criminal Sexual Conduct (Minn. Stat. § 609.3451) Sexual contact and:
		Nonconsensual sexual contact with any victim if the contact is not covered by a higher degree of the crime
		Masturbation or lewd exhibition of the genitals in the presence of a minor under age 16, knowing or having reason to know the minor is present
A victim <b>under 13 years old</b> if the actor is <b>more than</b> three years older than the victim	A victim <b>under 13 years old</b> if the actor is <b>no more than</b> three years older than the victim	
A victim <b>at least 13 but younger than 16</b> if the actor is <b>more than</b> four years older <b>and</b> uses a position of authority to make the victim submit	A victim <b>at least 13 but younger than 16</b> if the actor is <b>more than</b> four years older <b>or</b> uses a position of authority to make the victim submit.	
	A victim <b>at least 16 but younger than 18</b> if the actor is <b>more than</b> four years older <b>and</b> uses a position of authority to make the victim submit	
Circumstances at time of act caused victim to have reasonable <b>fear of imminent great bodily harm</b> to self or others		
Actor is armed with <b>dangerous weapon</b> and uses or threatens to use it to cause victim to submit		
Actor causes <b>personal injury</b> to victim <b>and either</b> actor uses force/coercion <b>or</b> victim is mentally impaired or incapacitated/physically helpless	Actor uses <b>force/coercion</b> <b>or</b> actor knows or should know victim is <b>mentally impaired or incapacitated/physically helpless</b>	
Actor is aided by accomplice <b>and either</b> accomplice uses force/coercion <b>or</b> accomplice is armed with dangerous weapon and uses or threatens to use it to cause victim to submit		
A victim <b>under 16 years old</b> and the actor has a “ <b>significant relationship</b> ” with the victim	A victim <b>at least 16 but younger than 18</b> and the actor has a “ <b>significant relationship</b> ” with the victim	

<b>2<sup>nd</sup> Degree Criminal Sexual Conduct</b> <b>(Minn. Stat. § 609.344)</b> <b>Sexual contact and:</b>	<b>4<sup>th</sup> Degree Criminal Sexual Conduct</b> <b>(Minn. Stat. § 609.345)</b> <b>Sexual contact and:</b>	<b>5<sup>th</sup> Degree Criminal Sexual Conduct</b> <b>(Minn. Stat. § 609.3451)</b> <b>Sexual contact and:</b>
A victim <b>under 16 years old</b> , the actor has a <b>“significant relationship”</b> with the victim, <b>and</b> any of the following circumstances exists: force/coercion, personal injury, or sexual abuse involved multiple acts committed over extended time period	A victim <b>at least 16 but younger than 18</b> , the actor has a <b>“significant relationship”</b> with the victim, <b>and</b> any of the following circumstances exists: force/coercion, personal injury, or sexual abuse involved multiple acts committed over extended time period	
	Actor is <b>psychotherapist</b> , victim is patient and act occurred during therapy session or during the ongoing therapy relationship, victim is former patient and is emotionally dependent on therapist, or victim is patient or former patient and act occurred by means of therapeutic deception	
	Actor accomplishes act by means of <b>deception or false representation</b> that it is for a <b>bona fide medical purpose</b>	
	Actor is or purports to be <b>member of clergy</b> , victim is not married to actor, and <b>either</b> act occurred during spiritual advice meeting <b>or</b> during a time when victim was meeting with actor on ongoing basis for spiritual advice	