



NOTE:

Sen. Limmer and Rep. Cornish want readers to know that this draft is not a bill ready for introduction; instead, it is more of a compilation of ideas and suggestions brought to them by various stakeholders."

1.1 A bill for an act
 1.2 relating to public safety; providing for indeterminate lifetime and statutory
 1.3 maximum sentences for certain repeat sex offenders, adjusting when certain
 1.4 sex offenders are eligible for release from prison, and establishing a special
 1.5 review panel to make release decisions regarding these offenders; precluding the
 1.6 subsequent civil commitment of certain sex offenders subject to enhanced prison
 1.7 sentences; providing for lifetime supervision for all sex offenders; criminalizing
 1.8 the failure of a sex offender provisionally discharged from civil commitment
 1.9 to comply with the offender's release conditions; establishing a sex offender
 1.10 civil commitment petition screening panel for purposes of determining whether
 1.11 the civil commitment of certain sex offenders is appropriate; requiring county
 1.12 payment of certain expenses; providing for the identification of alternative
 1.13 treatment facilities; providing for periodic reviews and reduction in custody
 1.14 petitions; providing for implementation of a statewide judicial panel for
 1.15 commitment proceedings regarding sexual psychopathic personalities and
 1.16 sexually dangerous persons; providing for consideration of alternatives to
 1.17 commitment or alternative treatment programs in certain cases; modifying
 1.18 commitment and appeal procedures; amending Minnesota Statutes 2010, sections
 1.19 244.05, subdivisions 1, 1b, 4, 5, 7; 244.101, by adding a subdivision; 244.195,
 1.20 subdivision 1; 253B.18, subdivision 2; 253B.185, subdivisions 1, 2, 4, 8, 18, by
 1.21 adding subdivisions; 253B.19, subdivision 3; 401.01, subdivision 2; 609.135, by
 1.22 adding a subdivision; 609.2231, subdivision 3a; 609.3455; Minnesota Statutes
 1.23 2011 Supplement, sections 246B.10; 253B.19, subdivision 2; proposing coding
 1.24 for new law in Minnesota Statutes, chapters 246B; 253B; repealing Minnesota
 1.25 Statutes 2010, section 609.3455, subdivision 6.

1.26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.27 **ARTICLE 1**

1.28 **SENTENCING PROVISIONS**

1.29 Section 1. Minnesota Statutes 2010, section 244.05, subdivision 1, is amended to read:

1.30 Subdivision 1. **Supervised release required.** Except as provided in subdivisions
 1.31 1b, 4, and 5, and section 609.3455, subdivision 1a, every inmate shall serve a supervised
 1.32 release term upon completion of the inmate's term of imprisonment as reduced by any

2.1 good time earned by the inmate or extended by confinement in punitive segregation
2.2 pursuant to section 244.04, subdivision 2. Except for a sex offender conditionally released
2.3 under Minnesota Statutes 2004, section 609.108, subdivision 5, the supervised release
2.4 term shall be equal to the period of good time the inmate has earned, and shall not exceed
2.5 the length of time remaining in the inmate's sentence.

2.6 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to crimes
2.7 committed on or after that date.

2.8 Sec. 2. Minnesota Statutes 2010, section 244.05, subdivision 1b, is amended to read:

2.9 Subd. 1b. **Supervised release; offenders who commit crimes on or after August**
2.10 **1, 1993.** (a) Except as provided in subdivisions 4 and 5, and section 609.3455, subdivision
2.11 1a, every inmate sentenced to prison for a felony offense committed on or after August
2.12 1, 1993, shall serve a supervised release term upon completion of the inmate's term of
2.13 imprisonment and any disciplinary confinement period imposed by the commissioner due
2.14 to the inmate's violation of any disciplinary rule adopted by the commissioner or refusal
2.15 to participate in a rehabilitative program required under section 244.03. The amount of
2.16 time the inmate serves on supervised release shall be equal in length to the amount of
2.17 time remaining in the inmate's executed sentence after the inmate has served the term of
2.18 imprisonment and any disciplinary confinement period imposed by the commissioner.

2.19 (b) No inmate who violates a disciplinary rule or refuses to participate in a
2.20 rehabilitative program as required under section 244.03 shall be placed on supervised
2.21 release until the inmate has served the disciplinary confinement period for that disciplinary
2.22 sanction or until the inmate is discharged or released from punitive segregation
2.23 confinement, whichever is later. The imposition of a disciplinary confinement period shall
2.24 be considered to be a disciplinary sanction imposed upon an inmate, and the procedure for
2.25 imposing the disciplinary confinement period and the rights of the inmate in the procedure
2.26 shall be those in effect for the imposition of other disciplinary sanctions at each state
2.27 correctional institution.

2.28 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to crimes
2.29 committed on or after that date.

2.30 Sec. 3. Minnesota Statutes 2010, section 244.05, subdivision 4, is amended to read:

2.31 Subd. 4. **Minimum imprisonment, life sentence and statutory maximum**
2.32 **sentences.** (a) An inmate serving a mandatory life sentence under section 609.106 or
2.33 609.3455, subdivision 2, must not be given supervised release under this section.

3.1 (b) An inmate serving a mandatory life sentence under section 609.185, clause (3),
3.2 (5), or (6); or Minnesota Statutes 2004, section 609.109, subdivision 3, must not be given
3.3 supervised release under this section without having served a minimum term of 30 years.

3.4 (c) An inmate serving a mandatory life sentence under section 609.385 must not
3.5 be given supervised release under this section without having served a minimum term of
3.6 imprisonment of 17 years.

3.7 (d) An inmate serving a mandatory life sentence under section 609.3455, subdivision
3.8 3 or 4, or a mandatory statutory maximum sentence under section 609.3455, subdivision
3.9 3b, must not be given supervised release under this section without having served the
3.10 minimum term of imprisonment specified by the court in its sentence.

3.11 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to crimes
3.12 committed on or after that date.

3.13 Sec. 4. Minnesota Statutes 2010, section 244.05, subdivision 5, is amended to read:

3.14 Subd. 5. **Supervised release, life sentence and statutory maximum sentences.**

3.15 (a) The commissioner of corrections may, under rules promulgated by the commissioner,
3.16 give supervised release to an inmate serving a mandatory life sentence under section
3.17 609.185, clause (3), (5), or (6); ~~609.3455, subdivision 3 or 4;~~ 609.385; or Minnesota
3.18 Statutes 2004, section 609.109, subdivision 3, after the inmate has served the minimum
3.19 term of imprisonment specified in subdivision 4.

3.20 (b) The commissioner shall give supervised release to an inmate serving a sentence
3.21 under section 609.3455, subdivision 3, 3b, or 4, after the inmate has served the minimum
3.22 term of imprisonment specified by the court in section 609.3455, subdivision 5, when
3.23 directed to do so by the special review panel described in section 609.3455, subdivision 10.

3.24 (c) The commissioner shall require the preparation of a community investigation
3.25 report and shall consider the findings of the report when making a supervised release
3.26 decision under this subdivision. The report shall reflect the sentiment of the various
3.27 elements of the community toward the inmate, both at the time of the offense and at the
3.28 present time. The report shall include the views of the sentencing judge, the prosecutor,
3.29 any law enforcement personnel who may have been involved in the case, and any
3.30 successors to these individuals who may have information relevant to the supervised
3.31 release decision. The report shall also include the views of the victim and the victim's
3.32 family unless the victim or the victim's family chooses not to participate.

3.33 (e) (d) The commissioner shall make reasonable efforts to notify the victim, in
3.34 advance, of the time and place of the inmate's supervised release review hearing. The
3.35 victim has a right to submit an oral or written statement at the review hearing. The

4.1 statement may summarize the harm suffered by the victim as a result of the crime and
4.2 give the victim's recommendation on whether the inmate should be given supervised
4.3 release at this time. The commissioner must consider the victim's statement when making
4.4 the supervised release decision.

4.5 ~~(d)~~ (e) When considering whether to direct the commissioner to give supervised
4.6 release to an inmate serving a life sentence under section 609.3455, subdivision 3 or
4.7 4, paragraph (a), the commissioner special review panel described in section 609.3455,
4.8 subdivision 10, shall consider, at a minimum, the following: the risk the inmate poses to
4.9 the community if released, the inmate's progress in treatment, the inmate's behavior while
4.10 incarcerated, psychological or other diagnostic evaluations of the inmate, the inmate's
4.11 criminal history, and any other relevant conduct of the inmate while incarcerated or
4.12 before incarceration. The ~~commissioner~~ panel may not direct the commissioner to give
4.13 supervised release to the inmate unless:

4.14 (1) while in prison:

4.15 (i) the inmate has successfully completed appropriate sex offender treatment;

4.16 (ii) the inmate has been assessed for chemical dependency needs and, if appropriate,
4.17 has successfully completed chemical dependency treatment; and

4.18 (iii) the inmate has been assessed for mental health needs and, if appropriate, has
4.19 successfully completed mental health treatment; and

4.20 (2) a comprehensive individual release plan is in place for the inmate that ensures
4.21 that, after release, the inmate will have suitable housing and receive appropriate aftercare
4.22 and community-based treatment. The comprehensive plan also must include a postprison
4.23 employment or education plan for the inmate.

4.24 ~~(e)~~ (f) As used in this subdivision, "victim" means the individual who suffered
4.25 harm as a result of the inmate's crime or, if the individual is deceased, the deceased's
4.26 surviving spouse or next of kin.

4.27 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to crimes
4.28 committed on or after that date.

4.29 Sec. 5. Minnesota Statutes 2010, section 244.101, is amended by adding a subdivision
4.30 to read:

4.31 **Subd. 5. Exception.** This section does not apply to offenders receiving executed
4.32 sentences for violating section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision
4.33 3, or 609.3453. These offenders' sentences are governed by section 609.3455.

5.1 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to crimes
5.2 committed on or after that date.

5.3 Sec. 6. Minnesota Statutes 2010, section 253B.185, is amended by adding a
5.4 subdivision to read:

5.5 Subd. 15a. **Provisional discharge; violation; felony.** A patient who violates a
5.6 provision of the patient's provisional discharge plan is guilty of a felony and may be
5.7 sentenced to imprisonment for not more than ten years. A sentence under this section shall
5.8 be consecutive to any other sentence imposed by the court.

5.9 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to crimes
5.10 committed on or after that date.

5.11 Sec. 7. Minnesota Statutes 2010, section 609.135, is amended by adding a subdivision
5.12 to read:

5.13 Subd. 2a. **Mandatory lifetime probation for sex offenders.** (a) When a court stays
5.14 the imposition or execution of sentence for a person convicted of violating section 609.342,
5.15 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 609.3453, notwithstanding the
5.16 statutory maximum penalty otherwise applicable to the offense or subdivision 2, the court
5.17 shall place the person on probation for the remainder of the person's life.

5.18 (b) The court shall have continuing jurisdiction over persons placed on lifetime
5.19 probation under this subdivision. If the person fails to meet any condition of probation,
5.20 the court may order an appropriate sanction, including, but not limited to, incarcerating
5.21 the person for a period specified by the court in a local jail or workhouse or revoking the
5.22 probation and executing the person's sentence.

5.23 (c) If the court subsequently executes a person's sentence under paragraph (b), and
5.24 the person is later released from prison, the provisions of section 609.3455, subdivision 7,
5.25 apply and the person is no longer on lifetime probation.

5.26 (d) Unless the court orders a higher level of monitoring, a probation agent may use
5.27 low-intensity monitoring methods for an offender placed on lifetime probation but, at a
5.28 minimum, must require the offender to provide the agent with annual address verification
5.29 by mail.

5.30 (e) An offender may petition the court to remove lifetime probation if at least ten
5.31 years have passed since sentencing or the offender's last probation violation, whichever
5.32 occurred most recently. Unless the court determines that good cause exists to continue
5.33 probation, the court must grant the offender's petition if the offender was not convicted of
5.34 another crime during the probationary period. If the court rejects the offender's petition,

6.1 the offender may not submit another application until two years after the date the court
6.2 denied the offender's last petition.

6.3 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to crimes
6.4 committed on or after that date.

6.5 Sec. 8. Minnesota Statutes 2010, section 609.3455, is amended to read:

6.6 **609.3455 ~~DANGEROUS SEX OFFENDERS; LIFE~~ AND STATUTORY**
6.7 **MAXIMUM SENTENCES; RELEASE ELIGIBILITY; SPECIAL REVIEW**
6.8 **PANEL; CONDITIONAL RELEASE.**

6.9 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have
6.10 the meanings given.

6.11 (b) "Conviction" includes a conviction as an extended jurisdiction juvenile under
6.12 section 260B.130 for a violation of, or an attempt to violate, section 609.342, 609.343,
6.13 609.344, or 609.3453, if the adult sentence has been executed.

6.14 (c) "Extreme inhumane conditions" mean situations where, either before or after
6.15 the sexual penetration or sexual contact, the offender knowingly causes or permits the
6.16 complainant to be placed in a situation likely to cause the complainant severe ongoing
6.17 mental, emotional, or psychological harm, or causes the complainant's death.

6.18 (d) A "heinous element" includes:

6.19 (1) the offender tortured the complainant;

6.20 (2) the offender intentionally inflicted great bodily harm upon the complainant;

6.21 (3) the offender intentionally mutilated the complainant;

6.22 (4) the offender exposed the complainant to extreme inhumane conditions;

6.23 (5) the offender was armed with a dangerous weapon or any article used or fashioned
6.24 in a manner to lead the complainant to reasonably believe it to be a dangerous weapon and
6.25 used or threatened to use the weapon or article to cause the complainant to submit;

6.26 (6) the offense involved sexual penetration or sexual contact with more than one
6.27 victim;

6.28 (7) the offense involved more than one perpetrator engaging in sexual penetration or
6.29 sexual contact with the complainant; or

6.30 (8) the offender, without the complainant's consent, removed the complainant from
6.31 one place to another and did not release the complainant in a safe place.

6.32 (e) "Mutilation" means the intentional infliction of physical abuse designed to cause
6.33 serious permanent disfigurement or permanent or protracted loss or impairment of the

7.1 functions of any bodily member or organ, where the offender relishes the infliction of the
7.2 abuse, evidencing debasement or perversion.

7.3 (f) A conviction is considered a "previous sex offense conviction" if the offender was
7.4 convicted and sentenced for a sex offense before the commission of the present offense.

7.5 (g) A conviction is considered a "prior sex offense conviction" if the offender was
7.6 convicted of committing a sex offense before the offender has been convicted of the
7.7 present offense, regardless of whether the offender was convicted for the first offense
7.8 before the commission of the present offense, and the convictions involved separate
7.9 behavioral incidents.

7.10 (h) "Sex offense" means any violation of, or attempt to violate, section 609.342,
7.11 609.343, 609.344, 609.345, 609.3451, subdivision 3, 609.3453, or any similar statute of
7.12 the United States, this state, or any other state.

7.13 (i) "Special review panel" or "panel" means the special review panel described
7.14 in subdivision 10.

7.15 (j) "Torture" means the intentional infliction of extreme mental anguish, or extreme
7.16 psychological or physical abuse, when committed in an especially depraved manner.

7.17 ~~(j)~~ (k) An offender has "two previous sex offense convictions" only if the offender
7.18 was convicted and sentenced for a sex offense committed after the offender was earlier
7.19 convicted and sentenced for a sex offense and both convictions preceded the commission
7.20 of the present offense of conviction.

7.21 **Subd. 1a. Executed sentences; no right to release upon completion of term of**
7.22 **imprisonment.** (a) A person who receives an executed sentence for a violation of section
7.23 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 609.3453, is not entitled
7.24 to be released upon completion of the person's term of imprisonment and any disciplinary
7.25 confinement period imposed by the commissioner. Instead, the person must petition the
7.26 special review panel for release under subdivision 11.

7.27 (b) A person described in paragraph (a) may not be imprisoned under this
7.28 subdivision for a period that is longer than the person's executed sentence.

7.29 (c) This subdivision does not apply to persons sentenced under subdivision 2, 3, 3a,
7.30 3b, or 4.

7.31 **Subd. 2. Mandatory life sentence without release; egregious first-time and**
7.32 **repeat offenders.** (a) Notwithstanding the statutory maximum penalty otherwise
7.33 applicable to the offense, the court shall sentence a person convicted under section
7.34 609.342, subdivision 1, paragraph (c), (d), (e), (f), or (h); or 609.343, subdivision 1,
7.35 paragraph (c), (d), (e), (f), or (h), to life without the possibility of release if:

7.36 (1) the fact finder determines that two or more heinous elements exist; or

8.1 (2) the person has a previous sex offense conviction for a violation of section
8.2 609.342, 609.343, or 609.344, and the fact finder determines that a heinous element exists
8.3 for the present offense.

8.4 (b) A fact finder may not consider a heinous element if it is an element of the
8.5 underlying specified violation of section 609.342 or 609.343. In addition, when
8.6 determining whether two or more heinous elements exist, the fact finder may not use the
8.7 same underlying facts to support a determination that more than one element exists.

8.8 Subd. 3. **Mandatory life sentence for egregious first-time offenders.** (a)
8.9 Notwithstanding the statutory maximum penalty otherwise applicable to the offense, the
8.10 court shall sentence a person to imprisonment for life if the person is convicted under
8.11 section 609.342, subdivision 1, paragraph (c), (d), (e), (f), or (h), or 609.343, subdivision
8.12 1, paragraph (c), (d), (e), (f), or (h); and the fact finder determines that a heinous element
8.13 exists.

8.14 (b) The fact finder may not consider a heinous element if it is an element of the
8.15 underlying specified violation of section 609.342 or 609.343.

8.16 Subd. 3a. **Mandatory sentence for certain engrained offenders.** (a) A court shall
8.17 commit a person to the commissioner of corrections for a period of time that is not less
8.18 than double the presumptive sentence under the sentencing guidelines and not more than
8.19 the statutory maximum, or if the statutory maximum is less than double the presumptive
8.20 sentence, for a period of time that is equal to the statutory maximum, if:

8.21 (1) the court is imposing an executed sentence on a person convicted of committing
8.22 or attempting to commit a violation of section 609.342, 609.343, 609.344, 609.345, or
8.23 609.3453;

8.24 (2) the fact finder determines that the offender is a danger to public safety; and

8.25 (3) the fact finder determines that the offender's criminal sexual behavior is so
8.26 engrained that the risk of reoffending is great without intensive psychotherapeutic
8.27 intervention or other long-term treatment or supervision extending beyond the presumptive
8.28 term of imprisonment and supervised release.

8.29 (b) The fact finder shall base its determination that the offender is a danger to public
8.30 safety on any of the following factors:

8.31 (1) the crime involved an aggravating factor that would justify a durational departure
8.32 from the presumptive sentence under the sentencing guidelines;

8.33 (2) the offender previously committed or attempted to commit a predatory crime
8.34 or a violation of section 609.224 or 609.2242, including:

8.35 (i) an offense committed as a juvenile that would have been a predatory crime or a
8.36 violation of section 609.224 or 609.2242 if committed by an adult; or

9.1 (ii) a violation or attempted violation of a similar law of any other state or the United
9.2 States; or

9.3 (3) the offender planned or prepared for the crime prior to its commission.

9.4 (c) As used in this section, "predatory crime" has the meaning given in section
9.5 609.341, subdivision 22.

9.6 Subd. 3b. **Mandatory statutory maximum sentence; repeat offenders.** The court
9.7 shall sentence a person to imprisonment for the statutory maximum period applicable to
9.8 the offense if the person is convicted under section 609.342, 609.343, 609.344, 609.345,
9.9 or 609.3453, and the person has a previous or prior sex offense conviction.

9.10 Subd. 4. **Mandatory life sentence; repeat offenders.** (a) Notwithstanding the
9.11 statutory maximum penalty otherwise applicable to the offense, the court shall sentence a
9.12 person to imprisonment for life if the person is convicted of violating section 609.342,
9.13 609.343, 609.344, 609.345, or 609.3453 and:

9.14 (1) the person has two previous sex offense convictions; or

9.15 (2) the person has a previous sex offense conviction and:

9.16 (i) the fact finder determines that the present offense involved an aggravating factor
9.17 that would provide grounds for an upward durational departure under the sentencing
9.18 guidelines other than the aggravating factor applicable to repeat criminal sexual conduct
9.19 convictions;

9.20 (ii) the person received an upward durational departure from the sentencing
9.21 guidelines for the previous sex offense conviction; or

9.22 (iii) the person was sentenced under this section or Minnesota Statutes 2004, section
9.23 609.108, for the previous sex offense conviction; ~~or~~

9.24 ~~(3) the person has two prior sex offense convictions, and the fact finder determines~~
9.25 ~~that the prior convictions and present offense involved at least three separate victims, and:~~

9.26 ~~(i) the fact finder determines that the present offense involved an aggravating factor~~
9.27 ~~that would provide grounds for an upward durational departure under the sentencing~~
9.28 ~~guidelines other than the aggravating factor applicable to repeat criminal sexual conduct~~
9.29 ~~convictions;~~

9.30 ~~(ii) the person received an upward durational departure from the sentencing~~
9.31 ~~guidelines for one of the prior sex offense convictions; or~~

9.32 ~~(iii) the person was sentenced under this section or Minnesota Statutes 2004, section~~
9.33 ~~609.108, for one of the prior sex offense convictions.~~

9.34 (b) Notwithstanding the statutory maximum penalty otherwise applicable to the
9.35 offense, the court shall sentence a person to imprisonment for life if the person is convicted

10.1 of violating section 609.342, 609.343, 609.344, 609.345, or 609.3453, and the person has
10.2 two or more previous or prior sex offense convictions.

10.3 (c) Notwithstanding ~~paragraph~~ paragraphs (a) and (b), a court may not sentence a
10.4 person to imprisonment for life for a violation of section 609.345, unless the person's
10.5 previous or prior sex offense convictions that are being used as the basis for the sentence
10.6 are for violations of section 609.342, 609.343, 609.344, or 609.3453, or any similar statute
10.7 of the United States, this state, or any other state.

10.8 Subd. 4a. **Exception to certain mandatory sentences.** The mandatory sentences
10.9 described in subdivisions 3b and 4, paragraph (b), do not apply to persons convicted of
10.10 violating section 609.342, subdivision 1, paragraph (b) or (g); 609.343, subdivision 1,
10.11 paragraph (b) or (g); 609.344, subdivision 1, paragraph (b), (e), (f), (h), (i), (j), (k), (l),
10.12 (m), (n), or (o); or 609.345, subdivision 1, paragraph (b), (e), (f), (h), (i), (j), (k), (l), (m),
10.13 (n), or (o); unless the fact finder determines that the required prior sex offense conviction
10.14 or, if applicable, convictions, and the present offense each involved separate victims. This
10.15 exception applies only to determining whether a prior sex offense conviction triggers
10.16 a sentence under subdivision 3b or 4, paragraph (b). It does not apply to determining
10.17 whether a previous sex offense conviction triggers the sentence.

10.18 Subd. 5. **Life Indeterminate sentences; minimum term of imprisonment.** At
10.19 the time of sentencing under subdivision 3, ~~3b~~, or 4, the court shall specify a minimum
10.20 term of imprisonment, based on the sentencing guidelines or any applicable mandatory
10.21 minimum sentence, that must be served before the offender may be considered for
10.22 supervised release. This minimum term is subject to section 244.101, subdivision 1, and is
10.23 equal to two-thirds of the sentence the court pronounces.

10.24 Subd. 6. **Mandatory ten-year conditional release term.** Notwithstanding the
10.25 statutory maximum sentence otherwise applicable to the offense and unless a longer
10.26 conditional release term is required in subdivision 7, when a court commits an offender
10.27 to the custody of the commissioner of corrections for a violation of section 609.342,
10.28 609.343, 609.344, 609.345, or 609.3453, the court shall provide that, after the offender has
10.29 completed the sentence imposed, the commissioner shall place the offender on conditional
10.30 release for ten years, minus the time the offender served on supervised release.

10.31 Subd. 7. **Mandatory lifetime conditional release term.** ~~(a)~~ Notwithstanding the
10.32 statutory maximum penalty applicable to the offense, when a court sentences an offender
10.33 ~~under subdivision 3 or 4, to the custody of the commissioner of corrections for a violation~~
10.34 of section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 609.3453,
10.35 the court shall provide that, if the offender is released from prison, the commissioner

11.1 of corrections shall place the offender on conditional release for the remainder of the
11.2 offender's life.

11.3 ~~(b) Notwithstanding the statutory maximum sentence otherwise applicable to the~~
11.4 ~~offense, when the court commits an offender to the custody of the commissioner of~~
11.5 ~~corrections for a violation of section 609.342, 609.343, 609.344, 609.345, or 609.3453,~~
11.6 ~~and the offender has a previous or prior sex offense conviction, the court shall provide~~
11.7 ~~that, after the offender has completed the sentence imposed, the commissioner shall place~~
11.8 ~~the offender on conditional release for the remainder of the offender's life.~~

11.9 ~~(c) Notwithstanding paragraph (b), an offender may not be placed on lifetime~~
11.10 ~~conditional release for a violation of section 609.345, unless the offender's previous or~~
11.11 ~~prior sex offense conviction is for a violation of section 609.342, 609.343, 609.344, or~~
11.12 ~~609.3453, or any similar statute of the United States, this state, or any other state.~~

11.13 **Subd. 8. Terms of conditional release; applicable to all sex offenders.** (a) The
11.14 provisions of this subdivision relating to conditional release apply to all sex offenders
11.15 sentenced to prison for a violation of section 609.342, 609.343, 609.344, 609.345,
11.16 609.3451, subdivision 3, or 609.3453. Except as provided in this subdivision, conditional
11.17 release of sex offenders is governed by provisions relating to supervised release. The
11.18 commissioner of corrections may not dismiss an offender on conditional release from
11.19 supervision until the offender's conditional release term expires.

11.20 (b) The conditions of release may include successful completion of treatment and
11.21 aftercare in a program approved by the commissioner, satisfaction of the release conditions
11.22 specified in section 244.05, subdivision 6, and any other conditions the commissioner
11.23 considers appropriate. The commissioner shall develop a plan to pay the cost of treatment
11.24 of a person released under this subdivision. The plan may include co-payments from
11.25 offenders, third-party payers, local agencies, or other funding sources as they are identified.
11.26 This section does not require the commissioner to accept or retain an offender in a
11.27 treatment program. Before the offender is placed on conditional release, the commissioner
11.28 shall notify the sentencing court and the prosecutor in the jurisdiction where the offender
11.29 was sentenced of the terms of the offender's conditional release. The commissioner also
11.30 shall make reasonable efforts to notify the victim of the offender's crime of the terms of
11.31 the offender's conditional release. If the offender fails to meet any condition of release, the
11.32 commissioner may revoke the offender's conditional release and order that the offender
11.33 serve all or a part of the remaining portion of the conditional release term in prison.

11.34 **Subd. 9. Applicability.** The provisions of this section do not affect the applicability
11.35 of Minnesota Statutes 2004, section 609.108, to crimes committed before August 1, 2005,
11.36 or the validity of sentences imposed under Minnesota Statutes 2004, section 609.108.

12.1 Subd. 10. **Special review panel.** A special review panel is established and is
12.2 governed by section 15.0575, except as otherwise provided in this subdivision. The panel
12.3 consists of the commissioner of corrections or a designee and two retired judges appointed
12.4 by the chief justice of the Supreme Court. The commissioner shall convene the panel's
12.5 first meeting. The panel shall choose a chair from among its members. The panel shall
12.6 meet at the call of the chair. The panel shall hear and consider all petitions for supervised
12.7 release from imprisonment under subdivision 11 and determine whether to direct the
12.8 commissioner of corrections to give supervised release to the petitioner.

12.9 Subd. 11. **Petition for release; hearing.** (a) A person sentenced under subdivision
12.10 1a, 3, 3b, or 4, may petition the special review panel for supervised release as provided
12.11 in this subdivision. The panel shall hold a hearing on each petition for release before
12.12 making any determination. Within 45 days of the filing of the petition, the panel shall
12.13 give written notice of the time and place of the hearing before the panel to all interested
12.14 parties, including the petitioner, the petitioner's attorney if applicable, law enforcement
12.15 and correctional personnel involved in the case, the sentencing court, the county attorney's
12.16 office that prosecuted the case, and any victims of the crime who have indicated a desire
12.17 to be notified. The hearing must be recorded and held on the record. The petitioner may
12.18 present witnesses on the petitioner's behalf. The county attorney who prosecuted the case,
12.19 the sentencing judge, law enforcement and correctional personnel involved in the case,
12.20 the victim and the victim's family members, and any other interested party may submit
12.21 a written or oral statement at the hearing addressing the appropriateness of the inmate's
12.22 release.

12.23 (b) If the panel votes to direct the commissioner to give supervised release to
12.24 the petitioner, the commissioner shall do so no later than 14 days after the panel's
12.25 determination.

12.26 (c) If the panel rejects the inmate's petition for supervised release, it shall specify in
12.27 writing the reasons for the rejection. Unless the panel specifies a shorter time period, the
12.28 inmate may not petition for supervised release again until:

12.29 (1) for inmates sentenced under subdivision 3, 3b, or 4, 36 months have elapsed
12.30 since the rejection; and

12.31 (2) for inmates sentenced under subdivision 1a, 18 months have elapsed since the
12.32 rejection.

12.33 (d) A person may initially petition for supervised release under this subdivision
12.34 once the person is within 90 days of having served the minimum term of imprisonment
12.35 specified by the court. However, no person may actually be released before serving the
12.36 minimum term.

13.1 Subd. 12. **Criteria for release.** (a) When considering whether to order the
13.2 commissioner of corrections to give supervised release to an inmate serving a sentence
13.3 under subdivision 1a, 3b, or 4, paragraph (b), the panel shall consider, at a minimum, the
13.4 following: the risk the inmate poses to the community if released, the inmate's progress
13.5 in treatment, the inmate's behavior while incarcerated, psychological or other diagnostic
13.6 evaluations of the inmate, the inmate's criminal history, the ability of the inmate to readjust
13.7 to open society, the testimony or statements of individuals with an interest in the case
13.8 made at the hearing, and any other relevant conduct of the inmate while incarcerated
13.9 or before incarceration.

13.10 (b) The panel shall make a decision on directing the supervised release of an inmate
13.11 sentenced under section 609.3455, subdivision 3 or 4, paragraph (a), as provided in
13.12 section 244.05, subdivision 5.

13.13 (c) The commissioner shall prepare a community investigation report as described in
13.14 section 244.05, subdivision 5, paragraph (c), on an inmate who is petitioning for release
13.15 under subdivision 11.

13.16 Subd. 13. **Administrative support.** The Department of Corrections shall provide
13.17 office space and administrative support to the special review panel.

13.18 Subd. 14. **Civil commitment precluded.** A person sentenced under subdivision 3,
13.19 3b, or 4 is not subject to subsequent commitment under section 253B.185.

13.20 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to crimes
13.21 committed on or after that date.

13.22 Sec. 9. **REPEALER.**

13.23 Minnesota Statutes 2010, section 609.3455, subdivision 6, is repealed.

13.24 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to crimes
13.25 committed on or after that date.

13.26 **ARTICLE 2**

13.27 **CIVIL COMMITMENT CHANGES**

13.28 Section 1. Minnesota Statutes 2010, section 244.05, subdivision 7, is amended to read:

13.29 Subd. 7. **Sex offenders; civil commitment determination.** (a) Before the
13.30 commissioner releases from prison any inmate convicted under section 609.342,
13.31 609.343, 609.344, 609.345, or 609.3453, or sentenced as a patterned offender under
13.32 section 609.3455, subdivision 3a, and determined by the commissioner to be in a high
13.33 risk category, the commissioner shall make a preliminary determination whether, in

14.1 the commissioner's opinion, a petition under section 253B.185 may be appropriate.
14.2 The commissioner's opinion must be based on a recommendation of a Department
14.3 of Corrections screening committee ~~and a legal review and recommendation from~~
14.4 ~~independent counsel knowledgeable in the legal requirements of the civil commitment~~
14.5 ~~process. The commissioner may retain a retired judge or other attorney to serve as~~
14.6 ~~independent counsel.~~

14.7 (b) In making this decision, the commissioner shall have access to the following data
14.8 only for the purposes of the assessment and referral decision:

14.9 (1) private medical data under section 13.384 or sections 144.291 to 144.298, or
14.10 welfare data under section 13.46 that relate to medical treatment of the offender;

14.11 (2) private and confidential court services data under section 13.84;

14.12 (3) private and confidential corrections data under section 13.85; and

14.13 (4) private criminal history data under section 13.87.

14.14 (c) If the commissioner determines that a petition may be appropriate, the
14.15 commissioner shall forward this determination, along with a summary of the reasons for
14.16 the determination, to the ~~county attorney in the county where the inmate was convicted~~
14.17 sex offender civil commitment petition screening panel under section 253B.184 no
14.18 later than 12 months before the inmate's release date. If the inmate is received for
14.19 incarceration with fewer than 12 months remaining in the inmate's term of imprisonment,
14.20 or if the commissioner receives additional information less than 12 months before
14.21 release that makes the inmate's case appropriate for referral, the commissioner shall
14.22 forward the determination as soon as is practicable. Upon receiving the commissioner's
14.23 preliminary determination, the ~~county attorney~~ petition screening panel shall proceed in
14.24 the manner provided in section ~~253B.185~~ 253B.184. The commissioner shall release to
14.25 the ~~county attorney~~ petition screening panel all requested documentation maintained
14.26 by the department.

14.27 Sec. 2. Minnesota Statutes 2011 Supplement, section 246B.10, is amended to read:

14.28 **246B.10 LIABILITY OF COUNTY; REIMBURSEMENT.**

14.29 (a) The civilly committed sex offender's county shall pay to the state a portion of the
14.30 cost of care provided in the Minnesota sex offender program to a civilly committed sex
14.31 offender who has legally settled in that county. A county's payment must be made from
14.32 the county's own sources of revenue and payments must equal 25 percent of the cost of
14.33 care, as determined by the commissioner, for each day or portion of a day, that the civilly
14.34 committed sex offender spends at the facility. If payments received by the state under this
14.35 chapter exceed 75 percent of the cost of care, the county is responsible for paying the

15.1 state the remaining amount. The county is not entitled to reimbursement from the civilly
15.2 committed sex offender, the civilly committed sex offender's estate, or from the civilly
15.3 committed sex offender's relatives, except as provided in section 246B.07.

15.4 (b) The county shall, out of local money, pay the state:

15.5 (1) five percent of the cost of the housing, treatment, and supervision of individuals
15.6 who have received a conditional release under section 253B.185, subdivision 1d, or who
15.7 have been placed in an alternative facility under section 246B.20 or 253B.185, subdivision
15.8 1c; or

15.9 (2) 25 percent of costs for patients who do not have a conviction as an adult for a
15.10 sex offense, as defined in section 609.3457, subdivision 4.

15.11 **Sec. 3. [246B.20] ALTERNATIVE FACILITIES.**

15.12 (a) The commissioner of human services shall thoroughly review, analyze, and
15.13 identify existing state-owned housing options that are or may be available, to which
15.14 civilly committed sex offenders in the alternative program and assisted living unit of
15.15 the Minnesota sex offender program can be appropriately and safely transferred or
15.16 provisionally discharged or in which patients who are committed to an alternative program
15.17 under section 253B.185, subdivision 1c, may be placed. Specifically, the commissioner
15.18 shall examine the recently closed community-based behavioral hospital building or
15.19 buildings, other state-operated services homes and buildings, and any other state-owned
15.20 properties that are currently not utilized.

15.21 (b) The commissioner shall also explore working with the commissioner of
15.22 corrections to develop necessary housing for sex offenders under the jurisdiction of the
15.23 commissioners of human services and corrections with similar supervisory and housing
15.24 needs.

15.25 (c) The commissioner shall also work with interested housing providers to develop
15.26 appropriate, safe, and sufficient housing for the population specified under paragraph (a).

15.27 **Sec. 4. [246B.30] PERIODIC REVIEW; PETITION FOR REDUCTION IN**
15.28 **CUSTODY.**

15.29 (a) The commissioner of human services shall develop and implement a plan under
15.30 which the Minnesota sex offender program will periodically assess patients in the program
15.31 to determine whether it may be appropriate to initiate a petition for reduction in custody
15.32 on behalf of the patient. The plan must include standards for the assessment and address
15.33 the circumstances under which a petition for a reduction in custody may be appropriate for
15.34 a patient who has not completed all phases of the treatment program.

16.1 (b) If appropriate, the head of the treatment facility shall exercise the authority under
16.2 section 253B.185, subdivision 9, paragraph (c), to file a petition for a reduction in custody
16.3 on behalf of a patient in the alternative program or assisted living unit or any other patient
16.4 who does not initiate a petition for a reduction in custody.

16.5 Sec. 5. Minnesota Statutes 2010, section 253B.18, subdivision 2, is amended to read:

16.6 Subd. 2. **Review; hearing.** (a) A written treatment report shall be filed by the
16.7 treatment facility with the committing court within 60 days after commitment. If the
16.8 person is in the custody of the commissioner of corrections when the initial commitment is
16.9 ordered under subdivision 1, the written treatment report must be filed within 60 days after
16.10 the person is admitted to a secure treatment facility. The court shall hold a hearing to make
16.11 a final determination as to whether the person should remain committed as a person who is
16.12 mentally ill and dangerous to the public. The hearing shall be held within the earlier of 14
16.13 days of the court's receipt of the written treatment report, or within 90 days of the date of
16.14 initial commitment or admission, unless otherwise agreed by the parties.

16.15 (b) The court may, with agreement of the county attorney and attorney for the patient:

16.16 (1) waive the review hearing under this subdivision and immediately order an
16.17 indeterminate commitment under subdivision 3; or

16.18 (2) continue the review hearing for up to one year.

16.19 (c) If the court finds that the patient should be committed as a person who is
16.20 mentally ill, but not as a person who is mentally ill and dangerous to the public, the court
16.21 may commit the person as a person who is mentally ill and the person shall be deemed not
16.22 to have been found to be dangerous to the public for the purposes of subdivisions 4a to
16.23 15. Failure of the treatment facility to provide the required report at the end of the 60-day
16.24 period shall not result in automatic discharge of the patient.

16.25 (d) This subdivision does not apply to a commitment proceeding under section
16.26 253B.185.

16.27 Sec. 6. **[253B.184] SEX OFFENDER CIVIL COMMITMENT SCREENING**
16.28 **PANEL.**

16.29 (a) A sex offender civil commitment screening panel is established. The
16.30 commissioner of corrections shall provide administrative support for the screening panel.
16.31 The screening panel is comprised of five members, to be appointed as follows:

16.32 (1) two retired judges appointed by the chief justice of the Supreme Court;

16.33 (2) one attorney experienced in mental health and commitment law appointed by
16.34 the attorney general;

17.1 (3) one county attorney or county attorney's designee appointed by the Minnesota
17.2 County Attorneys Association; and

17.3 (4) one licensed psychologist or psychiatrist appointed by the commissioner of
17.4 human services.

17.5 (b) The screening panel shall review a preliminary determination made by the
17.6 commissioner of corrections under section 244.05, subdivision 7, that a petition under
17.7 section 253B.185 may be appropriate and make a final recommendation as to whether
17.8 the county attorney should proceed with a petition. The screening panel shall notify the
17.9 county attorney in the county where the inmate was convicted of its recommendation
17.10 under this section.

17.11 (c) The screening panel has access to the data specified in section 244.05,
17.12 subdivision 7, paragraph (b), for purposes of making a recommendation under this section.
17.13 The screening panel shall release requested documentation for its recommendation to the
17.14 county attorney, including documentation created by the screening panel or received from
17.15 the commissioner of corrections.

17.16 Sec. 7. Minnesota Statutes 2010, section 253B.185, subdivision 1, is amended to read:

17.17 Subdivision 1. **Commitment generally.** (a) Except as otherwise provided in this
17.18 section, the provisions of this chapter pertaining to persons who are mentally ill and
17.19 dangerous to the public apply with like force and effect to persons who are alleged or
17.20 found to be sexually dangerous persons or persons with a sexual psychopathic personality.
17.21 For purposes of this section, "sexual psychopathic personality" includes any individual
17.22 committed as a "psychopathic personality" under Minnesota Statutes 1992, section 526.10.

17.23 (b) Before commitment proceedings are instituted, the facts shall first be submitted
17.24 to the county attorney, who, if satisfied that good cause exists, will prepare the petition.
17.25 ~~The county attorney may request a prepetition screening report.~~ The petition is to be
17.26 executed by a person having knowledge of the facts and filed with the district court of
17.27 the county of financial responsibility or the county where the patient is present. If the
17.28 patient is in the custody of the commissioner of corrections, the petition may be filed in
17.29 the county where the conviction for which the person is incarcerated was entered. If the
17.30 proposed patient may qualify for an alternative facility placement under subdivision 1c or
17.31 a conditional release under subdivision 1d, the petition must include a statement to this
17.32 effect and request the court to order an evaluation of the proposed patient to determine the
17.33 most appropriate disposition and placement.

17.34 (c) The county attorney may request a prepetition screening report. If the proposed
17.35 patient does not have a conviction as an adult for a sex offense, as defined in section

18.1 609.3457, subdivision 4, the county attorney shall request a prepetition screening report
18.2 and the report must identify and recommend alternatives to civil commitment under this
18.3 section. A petition for commitment under this section of a patient who does not have a
18.4 conviction as an adult for a sex offense must explain the alternatives to commitment that
18.5 were considered and whether these alternatives were pursued before the petition was filed.

18.6 ~~(e)~~ (d) Upon ~~the filing~~ receipt of a petition alleging that a proposed patient is a
18.7 sexually dangerous person or is a person with a sexual psychopathic personality, the ~~court~~
18.8 presiding judge shall hear the petition as provided in section 253B.18.

18.9 ~~(d)~~ (e) In commitments under this section, the court shall commit the patient to a
18.10 secure treatment facility unless the patient establishes by clear and convincing evidence
18.11 that a less restrictive treatment program is available that is consistent with the patient's
18.12 treatment needs and the requirements of public safety or the court determines that the
18.13 patient should be placed in an alternative program under subdivision 1c or a conditional
18.14 release under subdivision 1d is appropriate.

18.15 ~~(e)~~ (f) After a ~~final~~ determination that a patient is a sexually dangerous person or
18.16 sexual psychopathic personality, the court shall order commitment for an indeterminate
18.17 period of time and the patient shall be transferred, provisionally discharged, or discharged,
18.18 only as provided in this section.

18.19 Sec. 8. Minnesota Statutes 2010, section 253B.185, is amended by adding a
18.20 subdivision to read:

18.21 Subd. 1c. **Alternative facility placements.** (a) This subdivision applies to a
18.22 proposed patient who is diagnosed as having a cognitive defect that may affect the patient's
18.23 ability to effectively participate in, or benefit from, a traditional treatment program
18.24 in a secure treatment facility or who, because of advanced age or physical disability,
18.25 could be effectively and safely managed in an alternative treatment facility or program.
18.26 For purposes of this subdivision, "cognitive defect" includes significantly subaverage
18.27 intellectual functioning existing concurrently with demonstrated deficits in adaptive
18.28 behavior, or compromised executive functioning evidenced by subaverage intellectual
18.29 functioning, learning disabilities, traumatic brain injury, or neurological impairment.

18.30 (b) If the court determines that this subdivision applies to a proposed patient, the
18.31 court shall commit the patient to an alternative facility under section 246B.20 or, if
18.32 appropriate, issue a conditional release under subdivision 1d. The court may commit the
18.33 patient to an alternative program in a secure treatment facility only if an alternative facility
18.34 is not available and a conditional release is not appropriate or if the court determines that
18.35 commitment to a secure treatment facility is necessary for public safety.

19.1 Sec. 9. Minnesota Statutes 2010, section 253B.185, is amended by adding a
19.2 subdivision to read:

19.3 Subd. 1d. **Conditional release.** (a) The court may order the conditional release
19.4 of a proposed patient if:

19.5 (1) the proposed patient does not have a conviction as an adult for a sex offense, as
19.6 defined in section 609.3457, subdivision 4;

19.7 (2) the proposed patient qualifies for an alternative program under subdivision 1c; or

19.8 (3) the court finds that, based on the nature and circumstances of the behavior and
19.9 the mental or emotional condition that forms the basis for the commitment, the proposed
19.10 patient is not likely to engage in harmful sexual conduct if placed on a conditional release
19.11 with appropriate terms and conditions.

19.12 (b) If the court finds that the conditional release of a proposed patient is appropriate,
19.13 the court shall notify the Minnesota sex offender program, which must prepare a plan
19.14 that identifies the treatment and services that the patient will receive in the community
19.15 and includes recommendations regarding the conditions of the release. The plan must
19.16 be presented to the court for its approval within 60 days after the court finds that a
19.17 conditional release is appropriate, unless the program and the patient request additional
19.18 time to develop the plan.

19.19 (c) An order for conditional release places the patient in the custody and control
19.20 of the commissioner of human services for the provision of treatment, services, and
19.21 supervision under the Minnesota sex offender program and the patient is subject to the
19.22 conditions set by the court and the program. At a minimum, these conditions must include
19.23 requirements that the patient:

19.24 (1) report to or appear before an individual or agency as directed by the court or the
19.25 program;

19.26 (2) comply with any applicable registration requirements under section 243.166;

19.27 (3) not commit a crime or possess a firearm or other dangerous weapon;

19.28 (4) not leave the state without the consent of the court or, in circumstances in which
19.29 the reason for the absence is of such an emergency nature that prior consent by the court is
19.30 not possible, without the consent of the program;

19.31 (5) attend and fully participate in assessment, treatment, and behavior monitoring,
19.32 including medical, psychological or psychiatric treatment specific to sex offenders, or
19.33 chemical dependency treatment, based on the plan approved by the court under paragraph
19.34 (b);

19.35 (6) submit to the search of the patient's person, residence, vehicle, or any personal or
19.36 real property under the patient's control at any time by the program;

20.1 (7) refrain from having any contact, including written or oral communications,
20.2 directly or indirectly, with certain specified individuals, including a victim of a crime
20.3 committed by the patient or the victim's family; and

20.4 (8) not establish any living arrangement or residence without prior approval of the
20.5 program.

20.6 (d) If the program determines that a patient released under this subdivision has
20.7 violated a condition of release or is exhibiting behavior that may be dangerous to self
20.8 or others or that the interests of public safety requires that the conditional release be
20.9 revoked, the program may request the court to issue an emergency ex parte order directing
20.10 a law enforcement agency to take the person into custody and transport the person to
20.11 a Department of Corrections or county correctional or detention facility or a secure
20.12 treatment facility. The county attorney or the program shall submit a statement showing
20.13 probable cause for the detention and submit a petition to revoke the conditional release
20.14 order within 48 hours after the detention. The court shall hear the petition within 30 days,
20.15 unless the hearing or deadline is waived by the patient. If the court determines that a
20.16 condition of release has been violated or that the safety of the patient or others requires
20.17 that the conditional release be revoked, the court shall revoke the conditional release and
20.18 order an appropriate commitment placement under this section.

20.19 (e) This subdivision does not affect or replace any applicable registration
20.20 requirements under section 243.166 or notice requirements under sections 244.052 and
20.21 244.053.

20.22 Sec. 10. Minnesota Statutes 2010, section 253B.185, subdivision 4, is amended to read:

20.23 Subd. 4. **Statewide judicial panel; commitment proceedings.** ~~(a)~~ The Supreme
20.24 Court ~~may~~ shall establish a panel of ~~district retired~~ judges with statewide authority to
20.25 preside over commitment proceedings of sexual psychopathic personalities and sexually
20.26 dangerous persons. Only one judge of the panel ~~is required to~~ will preside over a particular
20.27 commitment proceeding. Panel members shall serve for ~~one-year~~ terms specified by the
20.28 Supreme Court. One of the judges shall be designated as the chief judge of the panel, and
20.29 is vested with the power to designate the presiding judge in a particular case, to set the
20.30 proper venue for the proceedings, and to otherwise supervise and direct the operation of
20.31 the panel. The chief judge shall designate one of the other judges to act as chief judge
20.32 whenever the chief judge is unable to act.

20.33 ~~(b) If the Supreme Court creates the judicial panel authorized by this section, All~~
20.34 ~~petitions for civil commitment brought under subdivision 1 shall be filed with the Supreme~~
20.35 ~~Court instead of with the district court in the county where the proposed patient is present,~~

21.1 ~~notwithstanding any provision of subdivision 1 to the contrary. Otherwise,~~ All of the
21.2 other applicable procedures contained in this chapter apply to commitment proceedings
21.3 conducted by a judge on the panel.

21.4 Sec. 11. Minnesota Statutes 2010, section 253B.185, subdivision 8, is amended to read:

21.5 Subd. 8. **Petition and report required.** (a) Within 120 days of receipt of
21.6 a preliminary determination from a court under section 609.1351, or a ~~referral~~
21.7 recommendation from the commissioner of corrections pursuant to section 244.05,
21.8 ~~subdivision 7~~ sex offender civil commitment screening panel under section 253B.184,
21.9 a county attorney shall determine whether good cause under this section exists to file a
21.10 petition, and if good cause exists, the county attorney or designee shall file the petition
21.11 with the court. If the sex offender screening panel does not recommend a commitment
21.12 under this section and the county attorney proceeds with the petition, the petition must
21.13 articulate the basis for the county attorney's determination that a petition is appropriate.

21.14 (b) Failure to meet the requirements of paragraph (a) does not bar filing a petition
21.15 under subdivision 1 any time the county attorney determines pursuant to subdivision 1
21.16 that good cause for such a petition exists.

21.17 Sec. 12. Minnesota Statutes 2010, section 253B.185, subdivision 18, is amended to
21.18 read:

21.19 Subd. 18. **Discharge.** A patient who is committed as a sexual psychopathic
21.20 personality or sexually dangerous person shall not be discharged unless it appears to
21.21 the satisfaction of the judicial appeal panel, after a hearing and recommendation by a
21.22 majority of the special review board, that the patient is ~~capable of making an acceptable~~
21.23 ~~adjustment to open society,~~ is no longer dangerous to the public, and or is no longer in
21.24 need of inpatient treatment and supervision for the condition, disorder, or dysfunction
21.25 that resulted in a determination that the person was a sexual psychopathic personality
21.26 or a sexually dangerous person.

21.27 In determining whether a discharge shall be recommended, the special review board
21.28 and judicial appeal panel shall consider whether specific conditions exist to provide a
21.29 reasonable degree of protection to the public and to assist the patient in adjusting to the
21.30 community. If the desired conditions do not exist, the discharge shall not be granted.

21.31 Sec. 13. Minnesota Statutes 2011 Supplement, section 253B.19, subdivision 2, is
21.32 amended to read:

22.1 Subd. 2. **Petition; hearing.** (a) A person committed as mentally ill and dangerous
22.2 to the public under section 253B.18, or the county attorney of the county from which the
22.3 person was committed or the county of financial responsibility, may petition the judicial
22.4 appeal panel for a rehearing and reconsideration of a decision by the commissioner under
22.5 section 253B.18, subdivision 5. The judicial appeal panel must not consider petitions for
22.6 relief other than those considered by the commissioner from which the appeal is taken.
22.7 The petition must be filed with the Supreme Court within 30 days after the decision of
22.8 the commissioner is signed. The hearing must be held within 45 days of the filing of the
22.9 petition unless an extension is granted for good cause.

22.10 (b) A person committed as a sexual psychopathic personality or as a sexually
22.11 dangerous person under section 253B.185, or committed as both mentally ill and
22.12 dangerous to the public under section 253B.18 and as a sexual psychopathic personality
22.13 or as a sexually dangerous person under section 253B.185; or the county attorney of the
22.14 county from which the person was committed or the county of financial responsibility; ~~or~~
22.15 ~~the commissioner~~ may petition the judicial appeal panel for a rehearing and reconsideration
22.16 of a decision of the special review board under section 253B.185, subdivision 9. The
22.17 petition must be filed with the Supreme Court within 30 days after the decision is mailed
22.18 by the commissioner as required in section 253B.185, subdivision 9, paragraph (f). The
22.19 hearing must be held within ~~45~~ 90 days of the filing of the petition unless an extension
22.20 is granted for good cause. If no party petitions the judicial appeal panel for a rehearing
22.21 or reconsideration within 30 days, the judicial appeal panel shall either issue an order
22.22 adopting the recommendations of the special review board or set the matter on for a
22.23 hearing pursuant to this paragraph.

22.24 (c) For an appeal under paragraph (a) or (b), the Supreme Court shall refer the
22.25 petition to the chief judge of the judicial appeal panel. For an appeal under paragraph
22.26 (a) or (b), the chief judge shall notify the patient, the county attorney of the county of
22.27 commitment, the designated agency, ~~the commissioner,~~ the head of the treatment facility,
22.28 any interested person, and other persons the chief judge designates, of the time and place
22.29 of the hearing on the petition. For an appeal under paragraph (a), the chief judge shall
22.30 also notify the commissioner. The notice shall be given at least 14 days prior to the date
22.31 of the hearing.

22.32 (d) Any person may oppose the petition. The patient, the patient's counsel, the
22.33 county attorney of the committing county or the county of financial responsibility, and
22.34 for an appeal under paragraph (a), the commissioner, shall participate as parties to the
22.35 proceeding pending before the judicial appeal panel and shall, except when the patient is
22.36 committed solely as mentally ill and dangerous, no later than 20 days before the hearing

23.1 on the petition, inform the judicial appeal panel and the opposing party in writing whether
23.2 they support or oppose the petition and provide a summary of facts in support of their
23.3 position. The judicial appeal panel may appoint examiners and may adjourn the hearing
23.4 from time to time. It shall hear and receive all relevant testimony and evidence and make a
23.5 record of all proceedings. The patient, the patient's counsel, and the county attorney of the
23.6 committing county or the county of financial responsibility have the right to be present and
23.7 may present and cross-examine all witnesses and offer a factual and legal basis in support
23.8 of their positions. The petitioning party seeking discharge or provisional discharge bears
23.9 the burden of going forward with the evidence, which means presenting a prima facie
23.10 case with competent evidence to show that the person is entitled to the requested relief.
23.11 If the petitioning party has met this burden, the party opposing discharge or provisional
23.12 discharge bears the burden of proof by clear and convincing evidence that the discharge or
23.13 provisional discharge should be denied. A party seeking transfer under section 253B.18,
23.14 subdivision 6, or 253B.185, subdivision 11, must establish by a preponderance of the
23.15 evidence that the transfer is appropriate.

23.16 Sec. 14. Minnesota Statutes 2010, section 253B.19, subdivision 3, is amended to read:

23.17 Subd. 3. **Decision.** A majority of the judicial appeal panel shall rule upon the
23.18 petition. The panel shall consider the petition de novo. The judicial appeal panel shall rule
23.19 upon the petition within 90 days of the initial hearing on the petition unless an extension is
23.20 granted for good cause. The order of the judicial appeal panel shall supersede an order
23.21 of the commissioner under section 253B.18, subdivision 5, or a decision of the special
23.22 review board under section 253B.185, subdivision 9. No order of the judicial appeal panel
23.23 granting a transfer, discharge or provisional discharge shall be made effective sooner than
23.24 15 days after it is issued. The panel may not consider petitions for relief other than those
23.25 considered by the commissioner or special review board from which the appeal is taken.
23.26 The judicial appeal panel may not grant a transfer or provisional discharge on terms or
23.27 conditions that were not presented to the commissioner or the special review board.

23.28 ARTICLE 3

23.29 TECHNICAL CHANGES

23.30 Section 1. Minnesota Statutes 2010, section 244.195, subdivision 1, is amended to read:

23.31 Subdivision 1. **Definitions.** (a) As used in this subdivision, the following terms
23.32 have the meanings given them.

23.33 (b) "Commissioner" means the commissioner of corrections.

24.1 (c) "Conditional release" means parole, supervised release, conditional release as
24.2 authorized by section 609.3455, subdivision ~~6~~, 7, or 8; Minnesota Statutes 2004, section
24.3 609.108, subdivision 6; or Minnesota Statutes 2004, section 609.109, subdivision 7, work
24.4 release as authorized by sections 241.26, 244.065, and 631.425, probation, furlough, and
24.5 any other authorized temporary release from a correctional facility.

24.6 (d) "Court services director" means the director or designee of a county probation
24.7 agency that is not organized under chapter 401.

24.8 (e) "Detain" means to take into actual custody, including custody within a local
24.9 correctional facility.

24.10 (f) "Local correctional facility" has the meaning given in section 241.021,
24.11 subdivision 1.

24.12 (g) "Release" means to release from actual custody.

24.13 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to crimes
24.14 committed on or after that date.

24.15 Sec. 2. Minnesota Statutes 2010, section 253B.185, subdivision 2, is amended to read:

24.16 Subd. 2. **Transfer to correctional facility.** (a) If a person has been committed
24.17 under this section and later is committed to the custody of the commissioner of corrections
24.18 for any reason, including but not limited to, being sentenced for a crime or revocation of
24.19 the person's supervised release or conditional release under section 244.05; 609.3455,
24.20 subdivision ~~6~~, 7, or 8; Minnesota Statutes 2004, section 609.108, subdivision 6; or
24.21 Minnesota Statutes 2004, section 609.109, subdivision 7, the person shall be transferred to
24.22 a facility designated by the commissioner of corrections without regard to the procedures
24.23 provided in subdivision 11.

24.24 (b) If a person is committed under this section after a commitment to the
24.25 commissioner of corrections, the person shall first serve the sentence in a facility
24.26 designated by the commissioner of corrections. After the person has served the sentence,
24.27 the person shall be transferred to a treatment program designated by the commissioner
24.28 of human services.

24.29 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to crimes
24.30 committed on or after that date.

24.31 Sec. 3. Minnesota Statutes 2010, section 401.01, subdivision 2, is amended to read:

24.32 Subd. 2. **Definitions.** (a) For the purposes of sections 401.01 to 401.16, the
24.33 following terms have the meanings given them.

25.1 (b) "CCA county" means a county that participates in the Community Corrections
25.2 Act.

25.3 (c) "Commissioner" means the commissioner of corrections or a designee.

25.4 (d) "Conditional release" means parole, supervised release, conditional release as
25.5 authorized by section 609.3455, subdivision 6, 7, or 8; Minnesota Statutes 2004, section
25.6 609.108, subdivision 6; or Minnesota Statutes 2004, section 609.109, subdivision 7, work
25.7 release as authorized by sections 241.26, 244.065, and 631.425, probation, furlough, and
25.8 any other authorized temporary release from a correctional facility.

25.9 (e) "County probation officer" means a probation officer appointed under section
25.10 244.19.

25.11 (f) "Detain" means to take into actual custody, including custody within a local
25.12 correctional facility.

25.13 (g) "Joint board" means the board provided in section 471.59.

25.14 (h) "Local correctional facility" has the meaning given in section 241.021,
25.15 subdivision 1.

25.16 (i) "Local correctional service" means those services authorized by and employees,
25.17 officers, and agents appointed under section 244.19, subdivision 1.

25.18 (j) "Release" means to release from actual custody.

25.19 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to crimes
25.20 committed on or after that date.

25.21 Sec. 4. Minnesota Statutes 2010, section 609.2231, subdivision 3a, is amended to read:

25.22 Subd. 3a. **Secure treatment facility personnel.** (a) As used in this subdivision,
25.23 "secure treatment facility" has the meaning given in section 253B.02, subdivision 18a.

25.24 (b) Whoever, while committed under section 253B.185 or Minnesota Statutes
25.25 1992, section 526.10, commits either of the following acts against an employee or other
25.26 individual who provides care or treatment at a secure treatment facility while the person is
25.27 engaged in the performance of a duty imposed by law, policy, or rule is guilty of a felony
25.28 and may be sentenced to imprisonment for not more than two years or to payment of
25.29 a fine of not more than \$4,000, or both:

25.30 (1) assaults the person and inflicts demonstrable bodily harm; or

25.31 (2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the
25.32 person.

25.33 (c) The court shall commit a person convicted of violating paragraph (b) to the
25.34 custody of the commissioner of corrections for not less than one year and one day. The
25.35 court may not, on its own motion or the prosecutor's motion, sentence a person without

26.1 regard to this paragraph. A person convicted and sentenced as required by this paragraph
26.2 is not eligible for probation, parole, discharge, work release, or supervised release, until
26.3 that person has served the full term of imprisonment as provided by law, notwithstanding
26.4 the provisions of sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

26.5 (d) Notwithstanding the statutory maximum sentence provided in paragraph (b),
26.6 when a court sentences a person to the custody of the commissioner of corrections for a
26.7 violation of paragraph (b), the court shall provide that after the person has completed the
26.8 sentence imposed, the commissioner shall place the person on conditional release for five
26.9 years. The terms of conditional release are governed by sections 244.05 and 609.3455,
26.10 subdivision ~~6~~, 7; or 8; and Minnesota Statutes 2004, section 609.109.

26.11 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to crimes
26.12 committed on or after that date.