

**CHAPTER 1139****SEXUALLY VIOLENT PREDATORS — CIVIL COMMITMENT**

S.F. 2286

**AN ACT** relating to the civil commitment of sexually violent predators, and providing an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 229A.1, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The general assembly further finds that the prognosis for rehabilitating sexually violent predators in a prison setting is poor, because the treatment needs of this population are very long-term, and the treatment modalities for this population are very different from the traditional treatment modalities available in a prison setting or for persons appropriate for commitment under chapter 229. Therefore, the general assembly finds that a civil commitment procedure for the long-term care and treatment of the sexually violent predator is necessary. The procedures regarding sexually violent predators should reflect legitimate public safety concerns, while providing treatment services designed to benefit sexually violent predators who are civilly committed. The procedures should also reflect the need to protect the public, to respect the needs of the victims of sexually violent offenses, and to encourage full meaningful participation of sexually violent predators in treatment programs.

Sec. 2. Section 229A.2, Code 2001, is amended by adding the following new subsections:  
NEW SUBSECTION. 2A. “Discharge” means an unconditional discharge from the sexually violent predator program. A person released from a secure facility into a transitional release program or released with or without supervision is not considered to be discharged.

NEW SUBSECTION. 6A. “Safekeeper” means a person who is confined in an appropriate secure facility pursuant to this chapter but who is not subject to an order of commitment pursuant to this chapter.

NEW SUBSECTION. 10. “Transitional release” means a conditional release from a secure facility operated by the department of human services with the conditions of such release set by the court or the department of human services.

Sec. 3. Section 229A.5, subsection 3, Code 2001, is amended to read as follows:

3. At the hearing, the rules of evidence do not apply, and the state may rely solely upon the petition filed under subsection 1, but the state may also supplement the petition with additional documentary evidence or live testimony.

Sec. 4. Section 229A.5B, Code Supplement 2001, is amended to read as follows:

229A.5B ESCAPE FROM CUSTODY.

1. A respondent person who is in custody detained pursuant to section 229A.5 or is subject to an order of civil commitment under this chapter shall remain in custody unless released by court order or discharged under section 229A.8 or 229A.10. A person who has been placed in a transitional release program or who is under release with or without supervision is considered to be in custody. A respondent person in custody under this chapter shall not do any of the following:

a. Leave or attempt to leave a facility without the accompaniment of authorized personnel or leave or attempt to leave a facility without authorization.

b. Knowingly and voluntarily be absent from a place where the respondent person is required to be present.

c. Leave or attempt to leave the custody of personnel transporting or guarding the respondent person while the respondent person is away from a facility.

2. A respondent person who violates subsection 1 commits a simple misdemeanor or may be subject to punishment for contempt. ~~If the respondent pleads guilty to, or is convicted of, an offense under this section, or is found in contempt, or both, and is sentenced to a term of confinement, the civil commitment proceedings or treatment process may be stayed by court order until the term of confinement is served by the respondent.~~

3. If a respondent person commits a violation of subsection 1 and remains unconfined, the attorney general or the chief law enforcement officer of the political subdivision where the violation occurs may make a public announcement that the respondent person is unconfined and may provide relevant information about the respondent person to the community. The attorney general may also notify a victim or the family of a victim of the respondent person that the respondent person is unconfined.

4. This section shall not be construed to prohibit the use of ~~the interstate compact on mental health as provided in chapter 221~~ other lawful means for the return of the person.

Sec. 5. NEW SECTION. 229A.5C CRIMINAL OFFENSES COMMITTED WHILE DETAINED OR SUBJECT TO AN ORDER OF COMMITMENT.

1. If a person who is detained pursuant to section 229A.5 or who is subject to an order of civil commitment under this chapter commits a public offense, the civil commitment proceedings or treatment process shall be suspended until the criminal proceedings, including any term of confinement, are completed. The person shall also not be eligible for bail pursuant to section 811.1.

2. Upon the filing of a complaint, indictment, or information, the person shall be transferred to the county jail in the county where the public offense occurred until the criminal proceedings have been completed. If the person is sentenced to a term of confinement in a county jail, the person shall serve the sentence at the county jail. If the person is sentenced to the custody of the director of the department of corrections, the person shall serve the sentence at a correctional institution.

3. A person who is subject to an order of civil commitment under this chapter shall not be released from jail or paroled or released to a facility or program located outside the county jail or correctional institution other than to a secure facility operated by the department of human services.

4. A person who committed a public offense while in a transitional release program or on release with or without supervision may be returned to a secure facility operated by the department of human services upon completion of any term of confinement that resulted from the commission of the public offense.

5. If the civil commitment proceedings for a person are suspended due to the commission of a public offense by the person, the ninety-day trial demand lapses. Upon completion of any term of confinement that resulted from the commission of the public offense, a new ninety-day trial demand automatically begins.

Sec. 6. NEW SECTION. 229A.5D MEDICAL TREATMENT.

A safekeeper is entitled to necessary medical treatment.

Sec. 7. NEW SECTION. 229A.6A TRANSPORT ORDERS.

1. A person who has been detained prior to trial pursuant to section 229A.5 or who has been civilly committed may be transported for the following purposes:

a. To trial and any other court proceedings if the court has authorized a transport order. A transport order may only be requested by the court, the person's attorney, or the attorney general. Transportation shall be provided by the sheriff of the county in which the action has been brought, unless the court specifies otherwise or the parties agree to a different transportation arrangement. If a transport order is not authorized, the person may appear at any court proceedings other than trial by telephone or electronic means.

b. To a medical facility for medical treatment, if necessary medical treatment is not available at the facility where the person is confined. A transport order is not required to transport

the person for medical treatment. However, the person is not entitled to choose the medical facility where treatment is to be obtained or the medical personnel to provide the treatment. Transportation of a committed person shall be provided by the sheriff of the county in which the person is confined if requested by the department of human services.

c. To a medical, psychological, or psychiatric evaluation. A person shall not be transported to another facility for evaluation without a court order. When a transportation order is requested under this paragraph, notice must be provided to the opposing party, and the opposing party must be given a reasonable amount of time to object to the issuance of such an order. The cost of the transportation shall be paid by the party who requests the order.

d. To a facility for placement or treatment in a transitional release program or for release with or without supervision. A transport order is not required under this paragraph.

2. This section shall not be construed to grant a person the right to personally appear at all court proceedings under this chapter.

Sec. 8. Section 229A.7, subsection 2, Code 2001, is amended to read as follows:

2. Within ninety days after either the entry of the order waiving the probable cause hearing or completion of the probable cause hearing held under section 229A.5, the court shall conduct a trial to determine whether the respondent is a sexually violent predator. The respondent or the attorney for the respondent may waive the ninety-day trial requirement as provided in this section; however, the respondent or the attorney for the respondent may reassert a demand and the trial shall be held within ninety days from the date of filing the demand with the clerk of court. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and when the respondent will not be substantially prejudiced. In determining what constitutes good cause, the court shall consider the length of the pretrial detention of the respondent.

2A. The respondent, the attorney general, or the judge shall have the right to demand that the trial be before a jury. Such demand for the trial to be before a jury shall be filed, in writing, at least ten days prior to trial. The number and selection of jurors shall be determined as provided in chapter 607A. If no demand is made, the trial shall be before the court. Except as otherwise provided, the Iowa rules of evidence and the Iowa rules of civil procedure shall apply to all civil commitment proceedings initiated pursuant to this chapter.

Sec. 9. Section 229A.7, subsections 3, 4, and 5, Code 2001, are amended to read as follows:

3. At trial, the court or jury shall determine whether, beyond a reasonable doubt, the respondent is a sexually violent predator. If the determination that the respondent is a sexually violent predator is made by a jury, the determination case is before a jury, the verdict shall be by unanimous verdict of such jury that the respondent is a sexually violent predator.

If the court or jury determines that the respondent is a sexually violent predator, the respondent shall be committed to the custody of the director of the department of human services for control, care, and treatment until such time as the person's mental abnormality has so changed that the person is safe to be at large placed in a transitional release program or discharged. The determination may be appealed.

4. The control, care, and treatment of a person determined to be a sexually violent predator shall be provided at a facility operated by the department of human services. At all times prior to placement in a transitional release program or release with or without supervision, persons committed for control, care, and treatment by the department of human services pursuant to this chapter shall be kept in a secure facility and those patients shall be segregated at all times from any other patient under the supervision of the department of human services. A person committed pursuant to this chapter to the custody of the department of human services may be kept in a facility or building separate from any other patient under the supervision of the department of human services. The department of human services may enter into a chapter 28E agreement with the department of corrections or other appropriate agency in this state or another state for the confinement of patients who have been determined to be sexually violent predators. Patients who are in the confinement custody of the director of the department

of corrections pursuant to a chapter 28E agreement ~~and who have not been placed in a transitional release program or released with or without supervision~~ shall be housed and managed separately from criminal offenders in the custody of the director of the department of corrections, and except for occasional instances of supervised incidental contact, shall be segregated from those offenders.

5. If the court ~~makes the determination or the jury is not satisfied beyond a reasonable doubt determines~~ that the respondent is ~~not~~ a sexually violent predator, the court shall direct the respondent's release. ~~Upon release, the respondent shall comply with any requirements to register as a sex offender as provided in chapter 692A.~~ Upon a mistrial, the court shall direct that the respondent be held at an appropriate secure facility until another trial is conducted. Any subsequent trial following a mistrial shall be held within ninety days of the previous trial, unless such subsequent trial is continued ~~or the ninety days are waived~~ as provided in subsection 2.

Sec. 10. Section 229A.8, Code 2001, is amended to read as follows:

229A.8 ANNUAL EXAMINATIONS, AND REVIEW — DISCHARGE OR TRANSITIONAL RELEASE PETITIONS BY PERSONS COMMITTED.

1. Upon civil commitment of a person pursuant to this chapter, a rebuttable presumption exists that the commitment should continue. The presumption may be rebutted when facts exist to warrant a hearing to determine whether a committed person no longer suffers from a mental abnormality which makes the person likely to engage in predatory acts constituting sexually violent offenses if discharged, or the committed person is suitable for placement in a transitional release program.

~~1.~~ 2. Each ~~A~~ person committed under this chapter shall have a current examination of the person's mental abnormality made once every year. The person may retain, or if the person is indigent and so requests, the court may appoint a qualified expert or professional person to examine such person, and such expert or professional person shall be given access to all records concerning the person.

~~2.~~ 3. The annual report shall be provided to the court that committed the person under this chapter. The court shall conduct an annual review and ~~probable cause, if warranted, set a final hearing on the status of the committed person.~~ The annual review may be based only on written records.

~~3.~~ 4. Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for discharge ~~or placement in a transitional release program~~ at the ~~probable cause hearing~~ annual review. The director of human services shall provide the committed person with an annual written notice of the person's right to petition the court for discharge ~~over the director's objection or placement in a transitional release program without authorization from the director.~~ The notice shall contain a waiver of rights. The director shall forward the notice and waiver form to the court with the annual report.

~~4.~~ 5. The following provisions apply to an annual review:

a. The committed person shall have a right to have an attorney represent the person at the ~~probable cause hearing~~ but the person is not entitled to be present at the hearing, ~~if a hearing is held.~~ If the court at the hearing determines that probable cause exists to believe that the person's

b. The Iowa rules of evidence do not apply.

c. The committed person may waive an annual review or may stipulate that the commitment should continue for another year.

d. The court shall review the annual report of the state and the report of any qualified expert or professional person retained by or appointed for the committed person and may receive arguments from the attorney general and the attorney for the committed person if either requests a hearing. The request for a hearing must be in writing, within thirty days of the notice of annual review being provided to counsel for the committed person, or on motion by the court. Such a hearing may be conducted in writing without any attorneys present.

e. The burden is on the committed person to show by a preponderance of the evidence that

there is competent evidence which would lead a reasonable person to believe a final hearing should be held to determine either of the following:

(1) The mental abnormality of the committed person has so changed that the person is safe to be at large and will not likely to engage in predatory acts or constituting sexually violent offenses if discharged, then the court shall set a final hearing on the issue.

(2) The committed person is suitable for placement in a transitional release program pursuant to section 229A.8A.

If the committed person shows by a preponderance of the evidence that a final hearing should be held on either determination under subparagraph (1) or (2), or both, the court shall set a final hearing within sixty days of the determination that a final hearing be held.

f. If at the time for the annual review the committed person has filed a petition for discharge or placement in a transitional release program with authorization from the director of human services, the court shall set a final hearing within ninety days of the authorization by the director, and no annual review shall be held.

g. If the committed person has not filed a petition, or has filed a petition for discharge or for placement in a transitional release program without authorization from the director of human services, the court shall first conduct the annual review as provided in this subsection.

h. Any petition can summarily be dismissed by the court as provided in section 229A.11.

i. If at the time of the annual review the committed person is in a secure facility and not in the transitional release program, the state shall have the right to demand that both determinations in paragraph "e" be submitted to the court or jury.

5. ~~6.~~ At the final hearing, the following provisions shall apply to a final hearing:

a. The committed person shall be entitled to be present ~~an attorney~~ and is entitled to the benefit of all constitutional protections that were afforded the person at the original commitment proceeding. The attorney general shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state ~~committed person shall be entitled to a jury trial, if such a demand is made in writing and filed with the clerk of court at least ten days prior to the final hearing.~~

b. The committed person shall also have the right to have experts evaluate the person on the person's behalf. The court shall appoint an expert if the person is indigent and requests an appointment.

c. The attorney general shall represent the state and shall have a right to demand a jury trial. The jury demand shall be filed, in writing, at least ten days prior to the final hearing.

d. The burden of proof at the final hearing shall be upon the state to prove beyond a reasonable doubt that the either of the following:

(1) The committed person's mental abnormality or personality disorder remains such that the person is not safe to be at large and if discharged is likely to engage in acts of sexual violence predatory acts that constitute sexually violent offenses if discharged.

(2) The committed person is not suitable for placement in a transitional release program pursuant to section 229A.8A.

e. If the director of human services has authorized the committed person to petition for discharge or for placement in a transitional release program and the case is before a jury, testimony by a victim of a prior sexually violent offense committed by the person is not admissible. If the director has not authorized the petition or the case is before the court, testimony by a victim of a sexually violent offense committed by the person may be admitted.

f. If a mistrial is declared, the confinement or placement status of the committed person shall not change. After a mistrial has been declared, a new trial must be held within ninety days of the mistrial.

7. The state and the committed person may stipulate to a transfer to a transitional release program if the court approves the stipulation.

Sec. 11. NEW SECTION. 229A.8A TRANSITIONAL RELEASE.

1. The department of human services is authorized to establish a transitional release pro-

gram and provide control, care, and treatment, and supervision of committed persons placed in such a program.

2. A committed person is suitable for placement in the transitional release program if the court finds that all of the following apply:

a. The committed person's mental abnormality is no longer such that the person is a high risk to reoffend.

b. The committed person has achieved and demonstrated significant insights into the person's sex offending cycle.

c. The committed person has accepted responsibility for past behavior and understands the impact sexually violent crimes have upon a victim.

d. A detailed relapse prevention plan has been developed and accepted by the treatment provider which is appropriate for the committed person's mental abnormality and sex offending history.

e. No major discipline reports have been issued for the committed person for a period of six months.

f. The committed person is not likely to escape or attempt to escape custody pursuant to section 229A.5B.

g. The committed person is not likely to commit acts constituting sexually violent offenses while in the program.

h. The placement is in the best interest of the committed person.

i. The committed person has demonstrated a willingness to agree to and abide by all rules of the program.

3. If the committed person does not agree to the conditions of release, the person is not eligible for the transitional release program.

4. For purposes of registering as a sex offender under chapter 692A, a person placed in the transitional release program shall be classified a "high-risk" sex offender and public notification shall be as provided in section 692A.13A, subsection 2. A committed person who refuses to register as a sex offender is not eligible for placement in a transitional release program.

5. Committed persons in the transitional release program are not necessarily required to be segregated from other persons.

6. The department of human services shall be responsible for establishing and implementing the rules and directives regarding the location of the transitional release program, staffing needs, restrictions on confinement and the movement of committed persons, and for assessing the progress of committed persons in the program. The court may also impose conditions on a committed person placed in the program.

7. The department of human services may contract with other government or private agencies, including the department of corrections, to implement and administer the transitional release program.

Sec. 12. NEW SECTION. 229A.8B VIOLATIONS OF TRANSITIONAL RELEASE.

1. The treatment staff in a transitional release program may remove the committed person from the program for a violation of any rule or directive, and return the person to a secure facility. The treatment staff may request the district court to issue an emergency ex parte order directing any law enforcement officer to take the committed person into custody so that the person can be returned to a secure facility. The request for an ex parte order may be made orally or by telephone, but the original written request or a facsimile copy of the original request shall be filed with the clerk of court no later than four-thirty p.m. on the next business day the office of the clerk of court is open.

2. If a committed person absconds from a transitional release program in violation of the rules or directives, a presumption arises that the person poses a risk to public safety. The department of human services, in cooperation with local law enforcement agencies, may make a public announcement about the absconder. The public announcement may include a description of the committed person, that the person is in transitional release from the sexually violent predator program, and any other information important to public safety.

3. Upon the return of the committed person to a secure facility, the director of human services or the director's designee shall notify the court that issued the ex parte order that the absconder has been returned to a secure facility, and the court shall set a hearing within five days to determine if a violation occurred. If a court order was not issued, the director or the director's designee shall contact the nearest district court with jurisdiction to set a hearing to determine whether a violation of the rules or directives occurred. The court shall schedule a hearing within five days of receiving notice that the committed person has been returned from the transitional release program to a secure facility.

4. At the hearing the burden shall be upon the attorney general to show by a preponderance of the evidence that a violation of the rules or directives occurred. The hearing shall be to the court.

5. If the court determines a violation occurred, the court shall either order the committed person to be returned to the transitional release program or to be confined in a secure facility. The court may impose further conditions upon the committed person if returned to the transitional release program. If the court determines no violation occurred, the committed person shall be returned to the transitional release program.

Sec. 13. NEW SECTION. 229A.9A RELEASE WITH OR WITHOUT SUPERVISION.

1. In any proceeding under section 229A.8, the court may order the committed person released with or without supervision if any of the following apply:

a. The attorney general stipulates to the release with or without supervision.

b. The court or jury has determined that the person should be discharged from the program, but the court has determined it is in the best interest of the community to order release with or without supervision before the committed person is discharged.

2. If release with or without supervision is ordered, the department of human services shall prepare within thirty days of the order of the court a release plan addressing the person's needs for counseling, medication, community support services, residential services, vocational services, alcohol or other drug abuse treatment, sex offender treatment, or any other treatment or supervision necessary.

3. The court shall set a hearing on the release plan prepared by the department of human services before the committed person is released from a secure facility or a transitional release program.

4. If the court orders release with supervision, the court shall order supervision by an agency with jurisdiction that is familiar with the placement of criminal offenders in the community. The agency with jurisdiction shall be responsible for initiating proceedings for violations of the release plan as provided in section 229A.9B. If the court orders release without supervision, the agency with jurisdiction shall also be responsible for initiating proceedings for any violations of the release plan as provided in section 229A.9B.

5. A committed person may not petition the court for release with or without supervision.

6. A committed person released with or without supervision is not considered discharged from civil commitment under this chapter.

7. After being released with or without supervision, the person may petition the court for discharge as provided in section 229A.8.

8. The court shall retain jurisdiction over the committed person who has been released with or without supervision until the person is discharged from the program. The department of human services shall not be held liable for any acts committed by a committed person who has been ordered released with or without supervision.

Sec. 14. NEW SECTION. 229A.9B VIOLATIONS OF RELEASE WITH OR WITHOUT SUPERVISION.

1. If a committed person violates the release plan, the agency with jurisdiction over the person may request the district court to issue an emergency ex parte order directing any law enforcement officer to take the person into custody so that the person can be returned to a secure facility. The request for an ex parte order may be made orally or by telephone, but the original

written request or a facsimile copy of the request shall be filed with the clerk of court no later than four-thirty p.m. on the next business day the office of the clerk of court is open.

2. If a committed person has absconded in violation of the conditions of the person's release plan, a presumption arises that the person poses a risk to public safety. The department of human services or contracting agency, in cooperation with local law enforcement agencies, may make a public announcement about the absconder. The public announcement may include a description of the committed person, that the committed person is on release with or without supervision from the sexually violent predator program, and any other information pertinent to public safety.

3. Upon the return of the committed person to a secure facility, the director of human services or the director's designee shall notify the court that issued the ex parte order that the committed person has been returned to a secure facility, and the court shall set hearing within five days to determine if a violation occurred. If a court order was not issued, the director or the director's designee shall contact the nearest district court with jurisdiction to set a hearing to determine whether a violation of the conditions of the release plan occurred. The court shall schedule a hearing within five days of receiving notice that the committed person has been returned to a secure facility.

4. At the hearing the burden shall be upon the attorney general to show by a preponderance of the evidence that a violation of the release plan occurred.

5. If the court determines a violation occurred, the court shall receive release recommendations from the department of human services and either order that the committed person be returned to release with or without supervision or placed in a transitional release program, or be confined in a secure facility. The court may impose further conditions upon the committed person if returned to release with or without supervision or placed in the transitional release program. If the court determines no violation occurred, the committed person shall be returned to release with or without supervision.

Sec. 15. Section 229A.10, Code 2001, is amended to read as follows:

229A.10 PETITION FOR DISCHARGE — PROCEDURE.

1. If the director of human services determines that the person's mental abnormality has so changed that the person is not likely to commit predatory acts or sexually violent offenses if discharged, the director shall authorize the person to petition the court for discharge. The petition shall be served upon the court and the attorney general. The court, upon receipt of the petition for discharge, shall order a hearing within thirty days. The attorney general shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the attorney general's choice. The hearing shall be before a jury if demanded by either the petitioner or the attorney general. ~~The~~ If the attorney general objects to the petition for discharge, the burden of proof shall be upon the attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is ~~not safe to be at large and that if discharged is likely to commit en-~~ gage in predatory acts ~~or sexually violent~~ that constitute sexually violent offenses ~~if discharged.~~

2. Upon a finding that the state has failed to meet its burden of proof under this section, ~~or a stipulation by the state,~~ the court shall authorize the release of the committed person to be discharged. ~~Release may be ordered with or without supervision. If supervised release is ordered, the department of human services shall prepare a plan addressing the person's needs for counseling, medication, community support services, residential services, vocational services, alcohol and other drug abuse treatment, and any other treatment or supervision necessary. If the court orders the release of the committed person with supervision, the court shall order supervision by an agency with jurisdiction that is familiar with the placement of criminal offenders in the community.~~

Sec. 16. Section 229A.11, Code 2001, is amended to read as follows:

229A.11 SUBSEQUENT DISCHARGE PETITIONS, — LIMITATIONS.

Nothing in this chapter shall prohibit a person from filing a petition for discharge or place-



ment in a transitional release program, pursuant to this chapter. However, if a person has previously filed a petition for discharge or for placement in a transitional release program without the authorization of the director of human services, and the court determines either upon review of the petition or following a hearing that the petition was frivolous or that the petitioner's condition had not so changed that the person was safe to be at large not likely to engage in predatory acts constituting sexually violent offenses if discharged, or was not suitable for placement in the transitional release program, then the court shall summarily deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the petitioner had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from a committed person without the director's authorization, the court shall endeavor whenever possible to review the petition and determine if the petition is based upon frivolous grounds. If the court determines that a petition is frivolous, the court shall ~~deny~~ dismiss the petition without a hearing.

Sec. 17. Section 229A.12, Code 2001, is amended to read as follows:

229A.12 DIRECTOR OF HUMAN SERVICES — RESPONSIBILITY FOR COSTS — REIMBURSEMENT.

The director of human services shall be responsible for all costs relating to the evaluation, treatment, and services provided to ~~persons~~ a person that are incurred after the person is committed to the director's custody after the court or jury determines that the respondent is a sexually violent predator and pursuant to commitment under any provision of this chapter. If placement in a transitional release program or supervision is ordered pursuant to section 229A.10, the director shall also be responsible for all costs related to the transitional release program or to the supervision and treatment of any person. Reimbursement may be obtained by the director from the patient and any person legally liable or bound by contract for the support of the patient for the cost of confinement, or of care and treatment provided. As used in this section, "any person legally liable" does not include a political subdivision.

Sec. 18. NEW SECTION. 229A.12A DIRECTOR OF THE DEPARTMENT OF CORRECTIONS — RESPONSIBILITY FOR SAFEKEEPER.

The director of the department of corrections shall have authority, once a person is detained pursuant to section 229A.5, to make a determination as to the appropriate secure facility within the department of corrections in which the safekeeper is to be placed, taking into consideration the safekeeper's medical needs and ability to interact with offenders who have been committed to the custody of the director of the department of corrections. The director has authority to determine the safekeeper's degree of segregation from offenders, including whether total segregation is appropriate under the circumstances or whether the safekeeper should be permitted to participate in normal confinement activities in the presence of offenders.

Sec. 19. Section 229A.14, Code 2001, is amended to read as follows:

229A.14 RELEASE OF CONFIDENTIAL OR PRIVILEGED INFORMATION AND RECORDS.

Notwithstanding ~~anything in chapter 22 to the contrary,~~ any provision in the Code regarding confidentiality to the contrary, any relevant information and records which would otherwise be confidential or privileged, except information subject to attorney-client privilege and attorney work product, shall be released to the agency with jurisdiction or the attorney general for the purpose of meeting the notice requirement provided in section 229A.3 and determining whether a person is or continues to be a sexually violent predator.

Sec. 20. NEW SECTION. 229A.15A CIVIL PROTECTIVE ORDER.

A victim of a crime that was committed before the filing of a petition under this chapter by a safekeeper or by a person subjected to an order of civil commitment pursuant to this chapter, may obtain a protective order against the safekeeper or person using the procedures set out in section 915.22.

Sec. 21. NEW SECTION. 229A.15B RULEMAKING AUTHORITY.

The department of human services shall adopt rules pursuant to chapter 17A necessary to administer this chapter.

Sec. 22. Section 811.1, subsections 1 and 2, Code 2001, are amended to read as follows:

1. A defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of a class "A" felony, murder, any class "B" felony included in section 462A.14 or 707.6A; felonious assault; felonious child endangerment; sexual abuse in the second degree; sexual abuse in the third degree; kidnapping; robbery in the first degree; arson in the first degree; burglary in the first degree; any felony included in section 124.401, subsection 1, paragraph "a" or "b"; or a second or subsequent offense under section 124.401, subsection 1, paragraph "c"; ~~or any felony punishable under section 902.9, subsection 1; any public offense committed while detained pursuant to section 229A.5; or any public offense committed while subject to an order of commitment pursuant to chapter 229A.~~

2. A defendant appealing a conviction of a class "A" felony; murder; any class "B" or "C" felony included in section 462A.14 or 707.6A; felonious assault; felonious child endangerment; sexual abuse in the second degree; sexual abuse in the third degree; kidnapping; robbery in the first degree; arson in the first degree; burglary in the first degree; any felony included in section 124.401, subsection 1, paragraph "a" or "b"; or a second or subsequent conviction under section 124.401, subsection 1, paragraph "c"; ~~or any felony punishable under section 902.9, subsection 1; any public offense committed while detained pursuant to section 229A.5; or any public offense committed while subject to an order of commitment pursuant to chapter 229A.~~

Sec. 23. Section 901A.1, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. As used in this chapter, the term "sexually violent offense" means the same as defined in section 229A.2.

Sec. 24. Section 901A.2, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. A person who has been placed in a transitional release program, released with or without supervision, or discharged pursuant to chapter 229A, and who is subsequently convicted of a sexually predatory offense or a sexually violent offense, shall be sentenced to life in prison on the same terms as a class "A" felon under section 902.1, notwithstanding any other provision of the Code to the contrary. The terms and conditions applicable to sentences for class "A" felons under chapters 901 through 909 shall apply to persons sentenced under this subsection. However, if the person commits a sexually violent offense which is a misdemeanor offense under chapter 709, the person shall be sentenced to life in prison, with eligibility for parole as provided in chapter 906.

Sec. 25. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Sec. 26. DIRECTIVE TO CODE EDITOR. The Code editor is directed to renumber sections in chapter 229A and correct internal references as necessary in conjunction with the enactment of this Act.

Sec. 27. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 30, 2002