

# Position Statement

2021

## Predatory Offender

### Proposal

#### Issue:

The Minnesota Maltreatment of Minors Act contains the definition of sexual abuse in Minnesota Statute 260E.03, Subd. 20. This includes under the description of threatened sexual abuse as the status of a parent or household member who requires registration as a predatory offender per §243.166, subdivision 1b, (a) or (b). Predatory Offender includes crimes that, while serious, may not involve child victims nor involve sexual offenses. However, categorically these situations are all treated as threatened sexual abuse and mandate an investigative response with alleged victim contact within 24 hours of receipt of the report. Additionally, MN Statute 260C.503, subd. 2 (a), (6) requires social services to ask the county attorney to immediately file a termination of parental rights petition when a parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, (a) or (b). These laws have resulted in any registered predatory offender known to be a parent being reported to child protection for an investigation and subsequent petition for termination of parental rights. These responses are resource-intensive because of the urgency for response even in the absence of an allegation of harm or substantial risk to the child's safety, and the requirement to request a termination of parental rights petition.

#### Implementation Strategy:

Amend §260E.03, Subd. 20 to clarify that "Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has direct contact with or unsupervised access to the child and has committed a violation which requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b)." This will eliminate reporting of individuals without access to children. Additionally amend §260C.503, subd. 2, (a), (6) to add "the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b) and the child is endangered by the parent". This will eliminate the requirement to request termination of parental rights automatically in all situations. These changes narrow the mandates, responding appropriately when children are unsafe.

### Systemic Priority Alignment (highlight all that apply and explain why)

- Equity
- Fiscal Framework

From the GARE Toolkit (See [www.racialequityalliance.org](http://www.racialequityalliance.org)): What are the racial equity impacts of this particular decision? Who will benefit from or be burdened by it? Are there strategies to mitigate unintended consequences?

#### Comments:

**Equity:** Communities of color are disproportionately represented in the criminal justice system, and Black, Indigenous, and People of Color as well as people in poverty experience higher rates of convictions in the system. This is a response dependent exclusively on convictions in the criminal justice system, and ensures a collateral involvement in the child welfare system if the individual convicted of a listed crime either is a parent of or household member to a child.

**Fiscal Framework:** These statutes mandate the immediate allocation of child protection and county attorney resources in response to situations that may not endanger or even may not involve children. These steps early in the child welfare system are largely local costs.

**Relevant Committee  
(highlight all that apply and explain why)**

- Adult Services
- Behavioral Health
- **Children's Services**
- Modernization
- Policy
- Self-Sufficiency

**Why:** The focus is on changes related to the Maltreatment of Minors Act and statutory criteria for the termination of parental rights.

**Rationale/Background:**

The Maltreatment of Minors Act in MN Stat. 260E.03, subd 20 under the definition of sexual abuse notes that "Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has committed a violation which requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b)." This has resulted in any registered predatory offender known to be a parent being reported to child protection for investigation even if the offender does not reside or have contact with their child, or even if the crime leading to registration was neither sexual conduct nor involved a child victim. In these circumstances, child protection must respond within 24 hours of receipt of the report if the reported person is a parent, whether or not they reside with children and whether or not there are any concerns about conduct toward any children with whom they are in contact. The determination is based solely on meeting the categorical definition of a predatory offender without regard to safety or risk to a child. Additionally, based on this status alone, child protection must ask the county attorney to immediately file a termination of parental rights petition, per MN Stat. 260C.503, subd. 2 (a), (6). This significantly impacts disparities in communities of color and person living in poverty where there is higher rate of contact with the criminal justice system. It also moves to sever and impact the bond between a child and parent without documented safety or risk for the child.

As an example, an adolescent was convicted of a criminal sexual misconduct charge at age 17 for sexual relationship with a 14 year old youth, and required to register as a sexual offender. Now at 25 he had complied with all aspects of his probation, was married and the couple had their first child. The probation officer, as a mandated reporter, made a child protection report but stated the client was in full compliance and had no restrictions around minor aged children. Based on MN Statute 260E.03, Subd. 20, not only was a child maltreatment investigation required which would determine maltreatment based solely on the requirement to register as a sexual offender, but a referral to the County Attorney Office for a termination of parental rights petition was required under MN Statute 260C.503.

Summary Statement: The intent of Minnesota Statute 260E.03, Subd. 20 is to protect children from the subjection to persons who pose a threat to the child's safety based on past history and criminal convictions. However, the statute as currently implemented is based on a status and not safety or risk posed by the alleged perpetrator. Adding the status of parents and household members in the definition of threatened sexual abuse clarified the potential danger to children and the responsibility of county child protection to assess the safety of their living situation, but the current language failed to account for circumstances when parents are known to have no contact with children or there are no risk to child safety. Including this definition under threatened sexual abuse and termination of parental rights mandates a rigorous response that may not be warranted, rather than tailoring the response to consideration of danger to children. If a registered predatory offender is in contact with or has unsupervised access to children in a home, counties are best positioned to determine the appropriate intervention based on the situation, and to work with families to assure the safety of children without being limited to investigating and pursuing termination of parental rights immediately.



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Approved on: