

by the state patrol or local law enforcement officer as to the possible danger to children due to the failure to equip and install for use in the motor vehicle a child passenger restraint system as described in this section. The warning shall also advise and urge that parent or guardian to utilize the child passenger restraint systems that are available in the vehicle. No other penalty shall be assessed against a parent or guardian for a violation of this section (b) No parent or legal guardian residing in this state who is operating a motor vehicle on the streets and highways of this state may transport his or her child under the age of four in a seat of the motor vehicle that was equipped with a factory-installed seat belt, unless the child is securely fastened in the child passenger restraint system. Any parent or legal guardian who violates the provisions of this subdivision is guilty of a petty misdemeanor. No penalty under clause (a) of this subdivision may be applied to a person who shows satisfactory evidence to the county court or violations bureau, in person or by mail, of having purchased or otherwise obtained the use of a child restraint system meeting federal motor vehicle safety standards, within 30 days of the violation. No fine may be imposed for a violation which is not a second or subsequent violation within a one-year period. A fine for a violation of this subdivision which is a petty misdemeanor may not exceed \$25.

Sec. 2. Minnesota Statutes 1982, section 65B.133, subdivision 5, is amended to read:

Subd. 5. **LIMITATION ON CHARGEABLE TRAFFIC VIOLATIONS.** No traffic violation is chargeable to a driver unless the driver is convicted of, or forfeits bail for, the offense, or the driver's license is revoked pursuant to section 169.123. If a surcharge is applied because bail is forfeited and if the driver is later acquitted of the offense, the insurer shall rebate the surcharge. A violation of section 169.685, subdivision 5 is not chargeable.

Sec. 3. **EFFECTIVE DATE.**

Section 1 is effective August 1, 1983 and applies to all violations committed on or after that date.

Approved June 6, 1983

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**CHAPTER 262 — H.F.No. 218**

*An act relating to crimes; expanding the rights of victims of crime; establishing the right of a victim to request restitution; providing for implementation of victim and witness rights by law; providing penal sanctions and judicial mechanisms to deter intimidation of witnesses; requiring development of a plan for notifying crime victims about available financial assistance and social services; providing for victim participation in the criminal process; providing penalties; amending Minnesota Statutes 1982, sections 241.26, subdivision 5; 243.23, subdivision 3; 609.115, subdivision 1, and by adding subdivisions; 609.498; and 631.425, subdivision 5; proposing new law coded as Minnesota Statutes, chapter 611A.*

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

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

**ARTICLE 1**  
**RIGHTS OF VICTIMS OF CRIMES**  
**GENERAL RIGHTS**

**Section 1. [611A.01] DEFINITIONS.**

For the purposes of sections 1 to 5:

(a) "Crime" means conduct that is included within the definition of "crime" in section 609.02, subdivision 1, or would be included within that definition but for the fact that (i) the person engaging in the conduct lacked capacity to commit the crime under the laws of this state, or (ii) the act was alleged or found to have been committed by a juvenile;

(b) "Victim" means a natural person who incurs loss or harm as a result of a crime. If the victim is deceased, "victim" means the deceased's surviving spouse or next of kin; and

(c) "Juvenile" has the same meaning as given to the term "child" in section 260.015, subdivision 2.

**Sec. 2. [611A.02] VICTIM SERVICE NOTIFICATION.**

The commissioner of corrections, in cooperation with the executive director of the crime victims reparations board, shall develop a plan to provide victims with information concerning victim services in the geographic area where the crime occurred. This information shall include, but need not be limited to, information about available victim crisis centers, programs for victims of sexual assault, victim witness programs, elderly victims projects, victim assistance hotlines, incest abuse programs, and domestic violence shelters and programs.

The plan shall take into account the fact that some counties currently have informational service systems and victim or witness services or programs.

This plan shall be presented to the appropriate standing committees of the legislature no later than February 1, 1984.

**Sec. 3. [611A.03] PLEA AGREEMENTS; NOTIFICATION.**

**Subdivision 1. PLEA AGREEMENTS; NOTIFICATION OF VICTIM.** Prior to the entry of the factual basis for a plea pursuant to a plea agreement recommendation, a prosecuting attorney shall make a reasonable and good faith effort to inform the victim of:

(a) The contents of the plea agreement recommendation; and

(b) His right to be present at the sentencing hearing and to express in writing any objection he has to the agreement or to the proposed disposition. If the victim is not present when the court considers the recommendation, but has

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communicated his objections to the prosecuting attorney, the prosecuting attorney shall make these objections known to the court.

Subd. 2. NOTIFICATION DUTIES. A prosecuting attorney satisfies the requirements of subdivision 1 by notifying:

(a) The victim's legal guardian or guardian ad litem; or

(b) The three victims the prosecuting attorney believes to have suffered the most, if there are more than three victims of the offense.

Subd. 3. APPLICABILITY. The provisions of this section apply to crimes which are violations of sections 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.224, 609.24, 609.245, 609.25, 609.255, 609.342, 609.343, 609.344, 609.345, 609.3641, 609.3642, 609.3643, 609.3644, 609.365, 609.498, 609.561, 609.58, clauses (1)(b) and (2), and 609.687.

#### **Sec. 4. [611A.04] VICTIM'S RIGHT TO REQUEST RESTITUTION.**

Subdivision 1. REQUEST; DECISION. A victim of a crime has the right to request that restitution be considered as part of the disposition of a criminal charge or juvenile delinquency proceeding against the offender. The request for restitution shall be made by the victim in writing in affidavit form, describing the items or elements of loss and itemizing the total dollar amounts of restitution claimed, and the reasons justifying these amounts, if the request is for monetary or property restitution. In order to be considered by the court, the request must be received by the clerk of the appropriate court at least three business days before the sentencing or dispositional hearing. The clerk of court shall provide copies of this request to the prosecutor and the offender at least 24 hours before the sentencing or dispositional hearing.

The court shall grant or deny restitution, and shall state on the record its reasons for its decision on restitution if a request for restitution has been made.

Subd. 2. PROCEDURES. The offender shall make restitution payments to the clerk of the county, municipal, or district court of the county in which the restitution is to be paid.

Subd. 3. EFFECT OF ORDER FOR RESTITUTION. A decision for or against restitution in any criminal or juvenile proceeding is not a bar to any civil action by the victim or by the state pursuant to section 299B.10 against the offender. The offender shall be given credit, in any order for judgment in favor of a victim in a civil action, for any restitution paid to the victim for the same injuries for which the judgment is awarded.

#### **Sec. 5. [611A.06] RIGHT TO NOTICE OF RELEASE.**

The commissioner of corrections or other custodial authority shall make a good faith effort to notify the victim that the offender is to be released from imprisonment or incarceration, other than for work release, prior to the release if

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the victim has mailed to the commissioner of corrections or to the head of the facility in which the offender is confined a written request for this notice. The commissioner or other custodial authority complies with this section if he mails the notice of impending release to the victim at the address which the victim has most recently provided to him in writing.

**Sec. 6. INSTRUCTION TO REVISOR.**

In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall renumber each section specified in Column A with the number set forth in Column B.

In addition, the revisor of statutes shall make necessary cross-reference changes consistent with renumbering required by this section.

Column A

Column B

Minnesota Statutes

1982

Section 645.23

Section 611A.05

VICTIM PROGRAMS

PROGRAM TO AID VICTIMS OF SEXUAL  
ATTACK

Section 241.51

Section 241.52

Section 241.53

Section 611A.21

Section 611A.22

Section 611A.23

BATTERED WOMEN

Section 241.61

Section 241.62

Section 241.63

Section 241.64

Section 241.65

Section 241.66

Section 611A.31

Section 611A.32

Section 611A.33

Section 611A.34

Section 611A.35

Section 611A.36

VICTIM AGENCIES

CRIME VIC-  
TIM CRISIS  
CENTER

Section 241.55

Section 241.56

Section 241.57

Section 241.58

Section 611A.41

Section 611A.42

Section 611A.43

Section 611A.44

CRIME VIC-  
TIMS REPA-  
RATIONS  
BOARD

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Section 299B.01  
Section 299B.02  
Section 299B.03  
Section 299B.04  
Section 299B.05  
Section 299B.06  
Section 299B.07  
Section 299B.071  
Section 299B.08  
Section 299B.09  
Section 299B.10  
Section 299B.11  
Section 299B.12  
Section 299B.13  
Section 299B.14  
Section 299B.15  
Section 299B.16  
Section 299B.17

Section 611A.51  
Section 611A.52  
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Section 611A.63  
Section 611A.64  
Section 611A.65  
Section 611A.66  
Section 611A.67  
Section 611A.68

## ARTICLE 2

Section 1. Minnesota Statutes 1982, section 241.26, subdivision 5, is amended to read:

Subd. 5. **EARNINGS; WORK RELEASE ACCOUNT.** The net earnings of each inmate participating in a work release program provided by this section shall be collected by or forwarded to the commissioner of corrections under rules established by him and deposited by the commissioner in the state treasury ~~and, to be credited to the "work release account," which account is hereby established,~~ to the account of ~~such the~~ inmate. ~~Such~~ The moneys shall be and remain under the control of the commissioner for the sole benefit of ~~such the~~ inmate, subject to disbursement by the commissioner for the following ~~purpose~~ purposes and in the following order:

(1) The cost of ~~such the~~ inmate's keep as determined by the provision of subdivision 7, which moneys shall be deposited in the general fund of the state treasury if ~~such the~~ inmate is housed in a state correctional institution, or shall be paid to the appropriate city or county treasurer if ~~such the~~ inmate is housed in a city or county facility;

(2) Necessary travel expense to and from work and other incidental expenses of the inmate;

(3) Support of inmate's dependents, if any;

(4) Court-ordered restitution;

(5) After the above expenditures, the inmate shall have discretion to direct payment of the balance, if any, upon proper proof of personal legal debts;

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~~(5)~~ (6) The balance, if any, shall be disbursed to the inmate as provided in section 243.24, subdivision 1.

All moneys in the "work release account" ~~established by this subdivision~~ are appropriated annually to the commissioner of corrections for the purposes of the work release program.

Sec. 2. Minnesota Statutes 1982, section 243.23, subdivision 3, is amended to read:

Subd. 3. **EXCEPTIONS.** Notwithstanding sections 241.01, subdivision 8, 241.26, subdivision 5, and 243.24, subdivision 1, the commissioner shall promulgate rules for the disbursement of funds earned under subdivision 1 for the support of families and dependent relatives of the respective inmates, for the payment of court-ordered restitution, and for the discharge of any legal obligations arising out of litigation under this subdivision. An inmate of an adult correctional facility under the control of the commissioner is subject to actions for the enforcement of support obligations and reimbursement of any public assistance rendered the dependent family and relatives. The commissioner may conditionally release an inmate who is a party to an action under this subdivision and provide for his detention in a local detention facility convenient to the place of the hearing when he is not engaged in preparation and defense.

Sec. 3. Minnesota Statutes 1982, section 609.115, subdivision 1, is amended to read:

Subdivision 1. **PRESENTENCE INVESTIGATION.** When a defendant has been convicted of a misdemeanor, or gross misdemeanor, or felony, the court may, and when the defendant has been convicted of a felony, the court shall, before sentence is imposed, cause a presentence investigation and written report to be made to the court concerning the defendant's individual characteristics, circumstances, needs, potentialities, criminal record and social history, the circumstances of the offense and the harm caused ~~thereby~~ by it to others and to the community. If the court ~~so~~ directs, the report shall include an estimate of the prospects of the defendant's rehabilitation and recommendations as to the sentence which should be imposed. In misdemeanor cases the report may be oral.

When a defendant has been convicted of a felony, and before sentencing, the court shall cause a sentencing worksheet to be completed to facilitate the application of the Minnesota sentencing guidelines. ~~If a presentence investigation is ordered by the court, the worksheet shall be submitted as part of the presentence investigation report. If a presentence investigation is not ordered by the court, the worksheet shall nonetheless be submitted.~~

The investigation shall be made by a probation officer of the court, if there is one, otherwise by the commissioner of corrections.

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Pending the presentence investigation and report, the court with the consent of the commissioner may commit the defendant to the custody of the commissioner of corrections who shall return the defendant to the court when the court so orders.

Presentence investigations shall be conducted and summary hearings held upon reports and upon the sentence to be imposed upon the defendant in accordance with this section, Minnesota Statutes, Section section 244.10, upon its effective date, and Rule 27 of the rules of criminal procedure.

Sec. 4. Minnesota Statutes 1982, section 609.115, is amended by adding a subdivision to read:

Subd. 1b. ADDITIONAL CONTENTS. The presentence investigation report shall also include the following information relating to victims:

(a) a summary of the damages or harm and any other problems generated by the criminal occurrence;

(b) a concise statement of what disposition the victim deems appropriate for the defendant or juvenile court respondent, including reasons given, if any, by the victim in support of his opinion; and

(c) an attachment to the report, consisting of the victim's written objections, if any, to the proposed disposition if the victim provides the officer conducting the presentence investigation with this written material within a reasonable time prior to the disposition.

For the purposes of this section, "victim" has the meaning given to it in article 1, section 1.

Sec. 5. Minnesota Statutes 1982, section 609.115, is amended by adding a subdivision to read:

Subd. 1c. NOTICE TO VICTIM. The officer conducting the presentence or predispositional report shall make reasonable and good faith efforts to contact the victim of that crime and to provide that victim with the following information: (i) the charge or juvenile court petition to which the defendant has been convicted or pleaded guilty, or the juvenile respondent has admitted in court or has been found to have committed by the juvenile court, and of any plea agreement between the prosecution and the defense counsel; (ii) his right to request restitution pursuant to article 1, section 4; (iii) the time and place of the sentencing or juvenile court disposition and his right to be present; and (iv) his right to object in writing to the court, prior to the time of sentencing or juvenile court disposition, to the proposed sentence or juvenile dispositional alternative, or to the terms of the proposed plea agreement. To assist the victim in making a recommendation under clause (iv), the officer shall provide the victim with information about the court's options for sentencing and other dispositions. Failure of the officer to comply with this subdivision does not give any rights or

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grounds for post-conviction or post-juvenile disposition relief to the defendant or juvenile court respondent, nor does it entitle a defendant or a juvenile court respondent to withdraw a plea of guilty.

Sec. 6. Minnesota Statutes 1982, section 609.498, is amended to read:

**609.498 TAMPERING WITH A WITNESS.**

**Subdivision 1. TAMPERING WITH A WITNESS IN THE FIRST DEGREE.** Whoever does any of the following is guilty of tampering with a witness in the first degree and may be sentenced as provided in subdivision 1a:

(a) intentionally prevents or dissuades or intentionally attempts to prevent or dissuade by means of force or threats of injury to person, family, or property, a person who is or may become a witness from attending or testifying at any trial, proceeding, or inquiry authorized by law, is guilty of tampering with a witness in the first degree and may be sentenced;

(b) intentionally threatens to cause injury to person, family, or property in retaliation against a person who was summoned as a witness at any trial, proceeding, or inquiry authorized by law, within a year following that trial, proceeding, or inquiry;

(c) intentionally prevents or dissuades or attempts to prevent or dissuade, by means of force or threats of injury to person, family, or property, a person from providing information to law enforcement authorities concerning a crime;  
or

(d) intentionally threatens to cause injury to person, family, or property in retaliation against a person who has provided information to law enforcement authorities concerning a crime within a year of that person providing the information.

**Subd. 1a. PENALTY.** Whoever violates subdivision 1 may be sentenced to imprisonment for not more than five years or to payment of a fine not to exceed \$5,000.

**Subd. 2. TAMPERING WITH A WITNESS IN THE SECOND DEGREE.** Whoever does any of the following is guilty of tampering with a witness in the second degree and may be sentenced as provided in subdivision 3:

(a) intentionally prevents or dissuades or intentionally attempts to prevent or dissuade by means of any act described in section 609.27, subdivision 1, clauses (3), (4), or (5), a person who is or may become a witness from attending or testifying at any trial, proceeding, or inquiry authorized by law, is guilty of tampering with a witness in the second degree and; or

(b) intentionally prevents or dissuades or attempts to prevent or dissuade by means of any act described in section 609.27, subdivision 1, clause (3), (4), or

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(5), a person from providing information to law enforcement authorities concerning a crime.

Subd. 3. SENTENCE. Whoever violates subdivision 2 may be sentenced to imprisonment for not more than one year or to payment of a fine not to exceed \$1,000.

Sec. 7. Minnesota Statutes 1982, section 631.425, subdivision 5, is amended to read:

Subd. 5. EARNINGS. The earnings of the prisoner may be collected by the sheriff, probation department, welfare board or suitable person or agency designated by the court. From such the earnings, the person or agency designated to collect them may pay the cost of the prisoner's maintenance, both inside and outside the jail, but the charge for maintenance inside the jail shall not exceed the legal daily allowance for board allowed the sheriff for ordinary prisoners, and, to the extent directed by the court, pay the support of his dependents, if any, and court costs and fines, and court-ordered restitution, if any. Any balance shall be retained until his discharge when it shall be paid to him.

Sec. 8. EFFECTIVE DATE.

Articles 1 and 2 of this act are effective August 1, 1983, and apply to crimes committed on or after that date.

Approved June 6, 1983

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## CHAPTER 263 — H.F.No. 314

*An act relating to insurance; requiring insurance agents to maintain trust accounts; requiring certain disclosures in personal sales contacts; requiring disclosure of certain limitations on medicare supplement insurance coverage; prohibiting the sale of more than two medicare supplement insurance policies to an individual; requiring copies of medicare supplement and life insurance applications to be provided to applicants; requiring applications for medicare supplement insurance to list health and accident insurance already maintained by applicant; providing for continuation and conversion of health and accident coverage for laid off employees; providing group coverage for handicapped dependents; allowing a deductible on certain medicare supplement insurance coverages; providing rulemaking authority; imposing civil penalties for certain violations; providing a criminal penalty; amending Minnesota Statutes 1982, sections 60A.17, subdivisions 1, 1a, and 6c, and by adding subdivisions; 62A.17; 62A.31; 62A.39; 62A.42; proposing new law coded in Minnesota Statutes, chapters 61A and 62A.*

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