

CHAPTER 611A

CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES

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611A.01 DEFINITIONS.

For the purposes of sections 611A.01 to 611A.06:

(a) "Crime" means conduct that is prohibited by local ordinance and results in bodily harm to an individual; or 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, including a good faith effort to prevent a crime, and for purposes of sections 611A.04 and 611A.045, also includes (i) a corporation that incurs loss or harm as a result of a crime, (ii) a government entity that incurs loss or harm as a result of a crime, and (iii) any other entity authorized to receive restitution under section 609.10 or 609.125. If the victim is a natural person and 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 260B.007, subdivision 3.

History: 1999 c 139 art 4 s 2

611A.035 CONFIDENTIALITY OF VICTIM'S ADDRESS.

Subdivision 1. **Discretion of prosecutor not to disclose.** A prosecutor may elect not to disclose a victim's or witness's home or employment address, telephone number, or date of birth if the prosecutor certifies to the trial court that:

(1) the defendant or respondent has been charged with or alleged to have committed a crime;

(2) the nondisclosure is needed to address the victim's or witness's concerns about safety or security; and

(3) the victim's or witness's home or employment address, telephone number, or date of birth is not relevant to the prosecution's case.

If such a certification is made, the prosecutor must make a motion with proper notice for the court's permission to continue to withhold this information.

The court shall either:

(1) order the information disclosed to defense counsel, but order it not disclosed to the defendant; or

(2) order the prosecutor to contact the victim or witness to arrange a confidential meeting between defense counsel, or defense counsel's agent, and the victim or witness, at a neutral location, if the victim or witness consents to a meeting.

This subdivision shall not be construed to compel a victim or witness to give any statement to or attend any meeting with defense counsel or defense counsel's agent.

Subd. 2. **Witness testimony in court.** No victim or witness providing testimony in court proceedings may be compelled to state a home or employment address, telephone number, or the date of birth of the victim or witness on the record in open court unless the court finds that the testimony would be relevant evidence.

History: 1999 c 79 s 1

611A.04 ORDER OF RESTITUTION.*[For text of subs 1 to 4, see M.S.1998]*

Subd. 5. **Unclaimed restitution payments.** Restitution payments held by the court for a victim that remain unclaimed by the victim for more than three years shall be deposited in the crime victims account created in section 611A.612.

At the time the deposit is made, the court shall record the name and last known address of the victim and the amount being deposited, and shall forward the data to the crime victims reparations board.

History: 1999 c 136 s 1

611A.045 PROCEDURE FOR ISSUING ORDER OF RESTITUTION.*[For text of subs 1 to 2a, see M.S.1998]*

Subd. 3. **Dispute; evidentiary burden; procedures.** (a) At the sentencing, dispositional hearing, or hearing on the restitution request, the offender shall have the burden to produce evidence if the offender intends to challenge the amount of restitution or specific items of restitution or their dollar amounts. This burden of production must include a detailed sworn affidavit of the offender setting forth all challenges to the restitution or items of restitution, and specifying all reasons justifying dollar amounts of restitution which differ from the amounts requested by the victim or victims. The affidavit must be served on the prosecuting attorney and the court at least five business days before the hearing. A dispute as to the proper amount or type of restitution must be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of loss sustained by a victim as a result of the offense and the appropriateness of a particular type of restitution is on the prosecution.

(b) An offender may challenge restitution, but must do so by requesting a hearing within 30 days of receiving written notification of the amount of restitution requested, or within 30 days of sentencing, whichever is later. Notice to the offender's attorney is deemed notice to the offender. The hearing request must be made in writing and filed with the court administrator. A defendant may not challenge restitution after the 30-day time period has passed.

History: 1999 c 38 s 1

611A.08 BARRING PERPETRATORS OF CRIMES FROM RECOVERING FOR INJURIES SUSTAINED DURING CRIMINAL CONDUCT.*[For text of subs 1 and 2, see M.S.1998]*

Subd. 3. **Evidence.** Notwithstanding other evidence which the victim may adduce relating to the perpetrator's conviction of the violent crime involving the parties to the civil action, a certified copy of: a guilty plea; a court judgment of guilt; a court record of conviction as specified in section 599.24, 599.25, or 609.041; an adjudication as a delinquent child; or a disposition as an extended jurisdiction juvenile pursuant to section 260B.130 is conclusive proof of the perpetrator's assumption of the risk.

[For text of subs 4 to 6, see M.S.1998]

History: 1999 c 139 art 4 s 2

611A.52 DEFINITIONS.*[For text of subs 1 to 7, see M.S.1998]*

Subd. 8. **Economic loss.** "Economic loss" means actual economic detriment incurred as a direct result of injury or death.

(a) In the case of injury the term is limited to:

(1) reasonable expenses incurred for necessary medical, chiropractic, hospital, rehabilitative, and dental products, services, or accommodations, including ambulance services, drugs, appliances, and prosthetic devices;

(2) reasonable expenses associated with recreational therapy where a claimant has suffered amputation of a limb;

(3) reasonable expenses incurred for psychological or psychiatric products, services, or accommodations, not to exceed an amount to be set by the board, where the nature of the injury or the circumstances of the crime are such that the treatment is necessary to the rehabilitation of the victim;

(4) loss of income that the victim would have earned had the victim not been injured;

(5) reasonable expenses incurred for substitute child care or household services to replace those the victim or claimant would have performed had the victim or the claimant's child not been injured. As used in this clause, "child care services" means services provided by facilities licensed under and in compliance with either Minnesota Rules, parts 9502.0315 to 9502.0445, or 9545.0510 to 9545.0670; or exempted from licensing requirements pursuant to section 245A.03. Licensed facilities must be paid at a rate not to exceed their standard rate of payment. Facilities exempted from licensing requirements must be paid at a rate not to exceed \$3 an hour per child for daytime child care or \$4 an hour per child for evening child care;

(6) reasonable expenses actually incurred to return a child who was a victim of a crime under section 609.25 or 609.26 to the child's parents or lawful custodian. These expenses are limited to transportation costs, meals, and lodging from the time the child was located until the child was returned home; and

(7) the claimant's moving expenses, storage fees, and phone and utility installation fees, up to a maximum of \$1,000 per claim, if the move is necessary due to a reasonable fear of danger related to the crime for which the claim was filed.

(b) In the case of death the term is limited to:

(1) reasonable expenses actually incurred for funeral, burial, or cremation, not to exceed an amount to be determined by the board on the first day of each fiscal year;

(2) reasonable expenses for medical, chiropractic, hospital, rehabilitative, psychological and psychiatric services, products or accommodations which were incurred prior to the victim's death and for which the victim's survivors or estate are liable;

(3) loss of support, including contributions of money, products or goods, but excluding services which the victim would have supplied to dependents if the victim had lived; and

(4) reasonable expenses incurred for substitute child care and household services to replace those which the victim or claimant would have performed for the benefit of dependents if the victim or the claimant's child had lived.

Claims for loss of support for minor children made under clause (3) must be paid for three years or until the child reaches 18 years old, whichever is the shorter period. After three years, if the child is younger than 18 years old a claim for loss of support may be resubmitted to the board, and the board staff shall evaluate the claim giving consideration to the child's financial need and to the availability of funds to the board. Claims for loss of support for a spouse made under clause (3) shall also be reviewed at least once every three years. The board staff shall evaluate the claim giving consideration to the spouse's financial need and to the availability of funds to the board.

Claims for substitute child care services made under clause (4) must be limited to the actual care that the deceased victim would have provided to enable surviving family members to pursue economic, educational, and other activities other than recreational activities.

[For text of subs 9 and 10, see M.S.1998]

History: 1999 c 136 s 2

611A.53 ELIGIBILITY FOR REPARATIONS.

Subdivision 1. **Generally.** Except as provided in subdivisions 1a and 2, the following persons shall be entitled to reparations upon a showing by a preponderance of the evidence that the requirements for reparations have been met:

(a) a victim who has incurred economic loss;

(b) a dependent who has incurred economic loss;

- (c) the estate of a deceased victim if the estate has incurred economic loss;
- (d) any other person who has incurred economic loss by purchasing any of the products, services, and accommodations described in section 611A.52, subdivision 8, for a victim;
- (e) the guardian, guardian ad litem, conservator or authorized agent of any of these persons.

Subd. 1a. **Providers; limitations.** No hospital, medical organization, health care provider, or other entity that is not an individual may qualify for reparations under subdivision 1, clause (d). If a hospital, medical organization, health care provider, or other entity that is not an individual qualifies for reparations under subdivision 1, clause (e) because it is a guardian, guardian ad litem, conservator, or authorized agent, any reparations to which it is entitled must be made payable solely or jointly to the victim, if alive, or to the victim's estate or successors, if the victim is deceased.

Subd. 1b. **Minnesota residents injured elsewhere.** (a) A Minnesota resident who is the victim of a crime committed outside the geographical boundaries of this state but who otherwise meets the requirements of this section shall have the same rights under this chapter as if the crime had occurred within this state upon a showing that the state, territory, or United States possession in which the crime occurred does not have a crime victim reparations law covering the resident's injury or death.

(b) Notwithstanding paragraph (a), a Minnesota resident who is the victim of a crime involving international terrorism who otherwise meets the requirements of this section has the same rights under this chapter as if the crime had occurred within this state regardless of where the crime occurred or whether the jurisdiction has a crime victims reparations law.

Subd. 2. No reparations shall be awarded to a claimant otherwise eligible if:

(a) the crime was not reported to the police within 30 days of its occurrence or, if it could not reasonably have been reported within that period, within 30 days of the time when a report could reasonably have been made. A victim of criminal sexual conduct in the first, second, third, or fourth degree who does not report the crime within 30 days of its occurrence is deemed to have been unable to have reported it within that period;

(b) the victim or claimant failed or refused to cooperate fully with the police and other law enforcement officials;

(c) the victim or claimant was the offender or an accomplice of the offender or an award to the claimant would unjustly benefit the offender or an accomplice;

(d) the victim or claimant was in the act of committing a crime at the time the injury occurred;

(e) no claim was filed with the board within three years of victim's injury or death; except that (1) if the claimant was unable to file a claim within that period, then the claim can be made within three years of the time when a claim could have been filed; and (2) if the victim's injury or death was not reasonably discoverable within three years of the injury or death, then the claim can be made within three years of the time when the injury or death is reasonably discoverable. The following circumstances do not render a claimant unable to file a claim for the purposes of this clause: (1) lack of knowledge of the existence of the Minnesota Crime Victims Reparations Act, (2) the failure of a law enforcement agency to provide information or assistance to a potential claimant under section 611A.66, (3) the incompetency of the claimant if the claimant's affairs were being managed during that period by a guardian, guardian ad litem, conservator, authorized agent, or parent, or (4) the fact that the claimant is not of the age of majority; or

(f) the claim is less than \$50.

The limitations contained in clauses (a) and (e) do not apply to victims of child abuse. In those cases the three-year limitation period commences running with the report of the crime to the police.

History: 1999 c 136 s 3

611A.612 CRIME VICTIMS ACCOUNT.

A crime victim account is established as a special account in the state treasury. Amounts collected by the state under section 611A.61, paid to the crime victims reparations board un-

der section 611A.04, subdivision 1a, or amounts deposited by the court under section 611A.04, subdivision 5, shall be credited to this account. Money credited to this account is annually appropriated to the department of public safety for use for crime victim reparations under sections 611A.51 to 611A.67.

History: 1999 c 136 s 4

611A.66 LAW ENFORCEMENT AGENCIES; DUTY TO INFORM VICTIMS OF RIGHT TO FILE CLAIM.

All law enforcement agencies investigating crimes shall provide victims with notice of their right to apply for reparations with the telephone number to call to request an application form.

Law enforcement agencies shall assist the board in performing its duties under sections 611A.51 to 611A.68. Law enforcement agencies within ten days after receiving a request from the board shall supply the board with requested reports, notwithstanding any provisions to the contrary in chapter 13, and including reports otherwise maintained as confidential or not open to inspection under section 260B.171 or 260C.171. All data released to the board retains the data classification that it had in the possession of the law enforcement agency.

History: 1999 c 139 art 4 s 2

611A.74 CRIME VICTIM OMBUDSMAN; CREATION.

[For text of subs 1 to 2, see M.S.1998]

Subd. 3. **Powers.** The crime victim ombudsman has those powers necessary to carry out the duties set out in subdivision 2, including:

(a) The ombudsman may investigate, with or without a complaint, any action of an element of the criminal justice system or a victim assistance program included in subdivision 2.

(b) The ombudsman may request and shall be given access to information and assistance the ombudsman considers necessary for the discharge of responsibilities. The ombudsman may inspect, examine, and be provided copies of records and documents of all elements of the criminal justice system and victim assistance programs. The ombudsman may request and shall be given access to police reports pertaining to juveniles and juvenile delinquency petitions, notwithstanding section 260B.171 or 260C.171. Any information received by the ombudsman retains its data classification under chapter 13 while in the ombudsman's possession. Juvenile records obtained under this subdivision may not be released to any person.

(c) The ombudsman may prescribe the methods by which complaints are to be made, received, and acted upon; may determine the scope and manner of investigations to be made; and subject to the requirements of sections 611A.72 to 611A.74, may determine the form, frequency, and distribution of ombudsman conclusions, recommendations, and proposals.

(d) After completing investigation of a complaint, the ombudsman shall inform in writing the complainant, the investigated person or entity, and other appropriate authorities of the action taken. If the complaint involved the conduct of an element of the criminal justice system in relation to a criminal or civil proceeding, the ombudsman's findings shall be forwarded to the court in which the proceeding occurred.

(e) Before announcing a conclusion or recommendation that expressly or impliedly criticizes an administrative agency or any person, the ombudsman shall consult with that agency or person.

[For text of subs 4 to 6, see M.S.1998]

History: 1999 c 139 art 4 s 2

611A.77 MEDIATION PROGRAMS FOR CRIME VICTIMS AND OFFENDERS.

Subdivision 1. **Grants.** The executive director of the center for crime victim services shall award grants to nonprofit organizations to create or expand mediation programs for crime victims and offenders. For purposes of this section, "offender" means an adult charged

with a nonviolent crime or a juvenile who has been referred to a mediation program before or after a petition for delinquency has been filed in connection with a nonviolent offense, and "nonviolent crime" and "nonviolent offense" exclude any offense in which the victim is a family or household member, as defined in section 518B.01, subdivision 2.

Subd. 2. Programs. The executive director of the center for crime victim services shall award grants to further the following goals:

(1) to expand existing mediation programs for crime victims and juvenile offenders to also include adult offenders;

(2) to initiate victim-offender mediation programs in areas that have no victim-offender mediation programs;

(3) to expand the opportunities for crime victims to be involved in the criminal justice process;

(4) to evaluate the effectiveness of victim-offender mediation programs in reducing recidivism and encouraging the payment of court-ordered restitution; and

(5) to evaluate the satisfaction of victims who participate in the mediation programs.

Subd. 3. Mediator qualifications. The executive director of the center for crime victim services shall establish criteria to ensure that mediators participating in the program are qualified.

Subd. 4. Match required. A nonprofit organization may not receive a grant under this section unless the group has raised a matching amount from other sources.

History: 1999 c 216 art 6 s 18