

CHAPTER 611A

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## DEFINITIONS AND GENERAL PROVISIONS

### 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:** 1983 c 262 art 1 s 1; 1987 c 254 s 10; 1988 c 649 s 1; 1995 c 226 art 7 s 8; 1996 c 408 art 7 s 5; 1997 c 239 art 7 s 19; 1999 c 139 art 4 s 2

### 611A.015 SCOPE OF VICTIMS' RIGHTS.

The rights afforded to crime victims in sections 611A.01 to 611A.06 are applicable to adult criminal cases, juvenile delinquency proceedings, juvenile traffic proceedings involving driving under the influence of alcohol or drugs, and proceedings involving any other act committed by a juvenile that would be a crime as defined in section 609.02, if committed by an adult.

**History:** 1993 c 326 art 6 s 6

### 611A.02 NOTIFICATION OF VICTIM SERVICES AND VICTIMS' RIGHTS.

Subdivision 1. **Victim services.** 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.

Subd. 2. **Victims' rights.** (a) The crime victim and witness advisory council shall develop two model notices of the rights of crime victims.

(b) The initial notice of the rights of crime victims must be distributed by a peace officer to each victim, as defined in section 611A.01, at the time of initial contact with the victim. The notice must inform a victim of:

(1) the victim's right to apply for reparations to cover losses, not including property losses, resulting from a violent crime and the telephone number to call to request an application;

(2) the victim's right to request that the law enforcement agency withhold public access to data revealing the victim's identity under section 13.82, subdivision 17, paragraph (d);

(3) the additional rights of domestic abuse victims as described in section 629.341;

(4) information on the nearest crime victim assistance program or resource; and

(5) the victim's rights, if an offender is charged, to be informed of and participate in the prosecution process, including the right to request restitution.

(c) A supplemental notice of the rights of crime victims must be distributed by the city or county attorney's office to each victim, within a reasonable time after the offender is charged or petitioned. This notice must inform a victim of all the rights of crime victims under this chapter.

Subd. 3. **Notice of the rights of victims in juvenile court.** (a) The crime victim and witness advisory council shall develop a notice of the rights of victims in juvenile court that explains:

(1) the rights of victims in the juvenile court;

(2) when a juvenile matter is public;

(3) the procedures to be followed in juvenile court proceedings; and

(4) other relevant matters.

(b) The juvenile court shall distribute a copy of the notice to each victim of juvenile crime who attends a juvenile court proceeding, along with a notice of services for victims available in that judicial district.

**History:** 1983 c 262 art 1 s 2; 1988 c 649 s 2; 1991 c 170 s 3; 1992 c 464 art 1 s 50; 1993 c 326 art 6 s 7; 1994 c 576 s 53; 1999 c 227 s 22

#### **611A.021 NOTICE OF RIGHT TO REQUEST WITHHOLDING OF CERTAIN PUBLIC DATA.**

A victim has a right under section 13.82, subdivision 17, clause (d), to request a law enforcement agency to withhold public access to data revealing the victim's identity.

**History:** 1990 c 579 s 7; 1999 c 227 s 22

#### **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, including the amount of time recommended for the defendant to serve in jail or prison if the court accepts the agreement; and

(b) the right to be present at the sentencing hearing and to express orally or in writing, at the victim's option, any objection to the agreement or to the proposed disposition. If the victim is not present when the court considers the recommendation, but has communicated 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. [Repealed, 1988 c 649 s 5]

**History:** 1983 c 262 art 1 s 3; 1986 c 351 s 18; 1986 c 444; 1Sp1986 c 3 art 1 s 76; 1989 c 190 s 3; 1992 c 571 art 5 s 4

**611A.031 VICTIM INPUT REGARDING PRETRIAL DIVERSION.**

A prosecutor shall make every reasonable effort to notify and seek input from the victim prior to referring a person into a pretrial diversion program in lieu of prosecution for a violation of sections 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.224, 609.2242, 609.24, 609.245, 609.25, 609.255, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561, 609.582, subdivision 1, 609.687, 609.713, and 609.749.

**History:** 1986 c 463 s 6; 1987 c 331 s 10; 1993 c 326 art 2 s 25; 1995 c 259 art 3 s 20

**611A.0311 DOMESTIC ABUSE PROSECUTIONS PLAN AND PROCEDURES; PILOT PROGRAM.**

Subdivision 1. **Definitions.** (a) "Domestic abuse" has the meaning given in section 518B.01, subdivision 2.

(b) "Domestic abuse case" means a prosecution for:

- (1) a crime that involves domestic abuse;
- (2) violation of a condition of release following an arrest for a crime that involves domestic abuse; or
- (3) violation of a domestic abuse order for protection.

Subd. 2. **Contents of plan.** Each county and city attorney shall develop and implement a written plan to expedite and improve the efficiency and just disposition of domestic abuse cases brought to the prosecuting authority. Domestic abuse advocates, law enforcement officials, and other interested members of the public must have an opportunity to assist in the development or adaptation of the plans in each jurisdiction. The commissioner shall make the model and related training and technical assistance available to all city and county attorneys. All plans must state goals and contain policies and procedures to address the following matters:

(1) early assignment of a trial prosecutor who has the responsibility of handling the domestic abuse case through disposition, whenever feasible, or, where applicable, probation revocation; and early contact between the trial prosecutor and the victim;

(2) procedures to facilitate the earliest possible contact between the prosecutor's office and the victim for the purpose of acquainting the victim with the criminal justice process, the use of subpoenas, the victim's role as a witness in the prosecution, and the domestic abuse or victim services that are available;

(3) procedures to coordinate the trial prosecutor's efforts with those of the domestic abuse advocate or victim advocate, where available, and to facilitate the early provision of advocacy services to the victim;

(4) procedures to encourage the prosecution of all domestic abuse cases where a crime can be proven;

(5) methods that will be used to identify, gather, and preserve evidence in addition to the victim's in-court testimony that will enhance the ability to prosecute a case when a victim is reluctant to assist, including but not limited to physical evidence of the victim's injury, evidence relating to the scene of the crime, eyewitness testimony, and statements of the victim made at or near the time of the injury;

(6) procedures for educating local law enforcement agencies about the contents of the plan and their role in assisting with its implementation;

(7) the use for subpoenas to victims and witnesses, where appropriate;

(8) procedures for annual review of the plan to evaluate whether it is meeting its goals effectively and whether improvements are needed; and

(9) a timetable for implementation.

Subd. 3. **Notice filed with department of public safety.** Each city and county attorney shall file a notice that a prosecution plan has been adopted with the commissioner of public safety by June 1, 1994.

**History:** 1990 c 583 s 5; 1992 c 571 art 6 s 18,19

**611A.0315 VICTIM NOTIFICATION; DOMESTIC ASSAULT; HARASSMENT.**

Subdivision 1. **Notice of decision not to prosecute.** (a) A prosecutor shall make every reasonable effort to notify a victim of domestic assault or harassment that the prosecutor has decided to decline prosecution of the case or to dismiss the criminal charges filed against the defendant. Efforts to notify the victim should include, in order of priority: (1) contacting the victim or a person designated by the victim by telephone; and (2) contacting the victim by mail. If a suspect is still in custody, the notification attempt shall be made before the suspect is released from custody.

(b) Whenever a prosecutor dismisses criminal charges against a person accused of domestic assault or harassment, a record shall be made of the specific reasons for the dismissal. If the dismissal is due to the unavailability of the witness, the prosecutor shall indicate the specific reason that the witness is unavailable.

(c) Whenever a prosecutor notifies a victim of domestic assault or harassment under this section, the prosecutor shall also inform the victim of the method and benefits of seeking an order for protection under section 518B.01 or a restraining order under section 609.748 and that the victim may seek an order without paying a fee.

Subd. 2. **Definitions.** For the purposes of this section, the following terms have the meanings given them.

(a) "Assault" has the meaning given it in section 609.02, subdivision 10.

(b) "Domestic assault" means an assault committed by the actor against a family or household member.

(c) "Family or household member" has the meaning given it in section 518B.01, subdivision 2.

(d) "Harassment" means a violation of section 609.749.

**History:** 1988 c 638 s 4; 1990 c 583 s 6; 1993 c 326 art 2 s 26

**611A.032** [Repealed, 1995 c 186 s 102]

**611A.033 SPEEDY TRIAL; NOTICE OF SCHEDULE CHANGE.**

(a) A victim has the right to request that the prosecutor make a demand under rule 11.10 of the Rules of Criminal Procedure that the trial be commenced within 60 days of the demand. The prosecutor shall make reasonable efforts to comply with the victim's request.

(b) A prosecutor shall make reasonable efforts to provide advance notice of any change in the schedule of the court proceedings to a victim who has been subpoenaed or requested to testify.

**History:** 1986 c 435 s 12

**611A.034 SEPARATE WAITING AREAS IN COURTHOUSE.**

The court shall provide a waiting area for victims during court proceedings which is separate from the waiting area used by the defendant, the defendant's relatives, and defense witnesses, if such a waiting area is available and its use is practical. If a separate waiting area for victims is not available or practical, the court shall provide other safeguards to minimize the victim's contact with the defendant, the defendant's relatives, and defense witnesses during court proceedings, such as increased bailiff surveillance and victim escorts.

**History:** 1986 c 435 s 13; 1992 c 571 art 5 s 5

**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:** 1986 c 444; 1986 c 463 s 8; 1987 c 331 s 11; 1997 c 239 art 7 s 20; 1999 c 79 s 1

#### **611A.036 PROHIBITION AGAINST EMPLOYER RETALIATION.**

An employer or employer's agent who threatens to discharge or discipline a victim or witness, or who discharges, disciplines, or causes a victim or witness to be discharged from employment or disciplined because the victim or the witness is subpoenaed or requested by the prosecutor to attend court for the purpose of giving testimony, is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to offer job reinstatement to any victim or witness discharged from employment in violation of this section, and to pay the victim or witness back wages as appropriate.

**History:** 1986 c 463 s 9; 1994 c 636 art 7 s 1

#### **611A.037 PRESENTENCE INVESTIGATION; VICTIM IMPACT; NOTICE.**

Subdivision 1. **Victim impact statement.** A presentence investigation report prepared under section 609.115 shall 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 the victim's 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.

**Subd. 2. Notice to victim.** The officer conducting a presentence or predispositional investigation shall make reasonable and good faith efforts to assure that the victim of that crime is provided with the following information by contacting the victim or assuring that another public or private agency has contacted the victim: (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) the victim's right to request restitution pursuant to section 611A.04; (iii) the time and place of the sentencing or juvenile court disposition and the victim's right to be present; and (iv) the victim's 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 grounds for postconviction or postjuvenile 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.

**History:** 1987 c 331 s 12; 1998 c 396 s 7

#### **611A.038 RIGHT TO SUBMIT STATEMENT AT SENTENCING.**

(a) A victim has the right to submit an impact statement to the court at the time of sentencing or disposition hearing. The impact statement may be presented to the court orally or in writing, at the victim's option. If the victim requests, the prosecutor must orally present the statement to the court.

Statements may include the following, subject to reasonable limitations as to time and length:

(1) a summary of the harm or trauma suffered by the victim as a result of the crime;

(2) a summary of the economic loss or damage suffered by the victim as a result of the crime; and

(3) a victim's reaction to the proposed sentence or disposition.

(b) A representative of the community affected by the crime may submit an impact statement in the same manner that a victim may as provided in paragraph (a). This impact statement shall describe the adverse social or economic effects the offense has had on persons residing and businesses operating in the community where the offense occurred.

(c) If the court permits the defendant or anyone speaking on the defendant's behalf to present a statement to the court, the court shall limit the response to factual issues which are relevant to sentencing.

(d) Nothing in this section shall be construed to extend the defendant's right to address the court under section 631.20.

**History:** 1988 c 649 s 3; 1989 c 290 art 2 s 16; 1997 c 239 art 7 s 21

#### **611A.0385 SENTENCING; IMPLEMENTATION OF RIGHT TO NOTICE OF OFFENDER RELEASE AND EXPUNGEMENT.**

At the time of sentencing or the disposition hearing in a case in which there is an identifiable victim, the court or its designee shall make reasonable good faith efforts to inform each affected victim of the offender notice of release and notice of expungement provisions of section 611A.06. If the victim is a minor, the court or its designee shall, if appropriate, also make reasonable good faith efforts to inform the victim's parent or guardian of the right to notice of release and notice of expungement. The state court administrator, in consultation with the commissioner of corrections and the prosecuting authorities, shall prepare a form that outlines the notice of release and notice of expungement provisions under section 611A.06 and describes how a victim should complete and submit a request to the commissioner of corrections or other custodial authority to be informed of an offender's release or submit a request to the prosecuting authorities to be informed of an offender's petition for expungement. The state court administrator shall make these forms available to court administrators who shall assist the court in disseminating right to notice of offender release and notice of expungement information to victims.

**History:** 1994 c 636 art 7 s 2; 2001 c 209 s 6

#### **611A.039 RIGHT TO NOTICE OF FINAL DISPOSITION OF CRIMINAL CASE.**

Subdivision 1. **Notice required.** Except as otherwise provided in subdivision 2, within 15 working days after a conviction, acquittal, or dismissal in a criminal case in

which there is an identifiable crime victim, the prosecutor shall make reasonable good faith efforts to provide to each affected crime victim oral or written notice of the final disposition of the case. When the court is considering modifying the sentence for a felony or a crime of violence or an attempted crime of violence, the court or its designee shall make a reasonable and good faith effort to notify the victim of the crime. If the victim is incapacitated or deceased, notice must be given to the victim's family. If the victim is a minor, notice must be given to the victim's parent or guardian. The notice must include:

- (1) the date and approximate time of the review;
- (2) the location where the review will occur;
- (3) the name and telephone number of a person to contact for additional information; and
- (4) a statement that the victim and victim's family may provide input to the court concerning the sentence modification.

As used in this section, "crime of violence" has the meaning given in section 624.712, subdivision 5, and also includes gross misdemeanor violations of section 609.224, and nonfelony violations of sections 518B.01, 609.2231, 609.3451, 609.748, and 609.749.

Subd. 2. **Exception.** If a prosecutor contacts an identifiable crime victim in advance of the final case disposition, either orally or in writing, and notifies the victim of the victim's right to request information on the final disposition of the case, the prosecutor shall only be required to provide the notice described in subdivision 1 to those victims who have indicated in advance their desire to be notified of the final case disposition.

**History:** 1991 c 170 s 4; 1997 c 239 art 7 s 22

#### **611A.0395 RIGHT TO INFORMATION REGARDING DEFENDANT'S APPEAL.**

Subdivision 1. **Prosecuting attorney to notify victims.** (a) The prosecuting attorney shall make a reasonable and good faith effort to provide to each affected victim oral or written notice of a pending appeal. This notice must be provided within 30 days of filing of the respondent's brief. The notice must contain a brief explanation of the contested issues or a copy of the brief, an explanation of the applicable process, information about scheduled oral arguments or hearings, a statement that the victim and the victim's family may attend the argument or hearing, and the name and telephone number of a person that may be contacted for additional information.

(b) In a criminal case in which there is an identifiable crime victim, within 15 working days of a final decision on an appeal, the prosecuting attorney shall make a reasonable and good faith effort to provide to each affected victim oral or written notice of the decision. This notice must include a brief explanation of what effect, if any, the decision has upon the judgment of the trial court and the name and telephone number of a person that may be contacted for additional information.

Subd. 2. **Exception.** The notices described in subdivision 1 do not have to be given to victims who have previously indicated a desire not to be notified.

**History:** 1997 c 239 art 7 s 23

#### **611A.04 ORDER OF RESTITUTION.**

Subdivision 1. **Request; decision.** (a) A victim of a crime has the right to receive restitution as part of the disposition of a criminal charge or juvenile delinquency proceeding against the offender if the offender is convicted or found delinquent. The court, or a person or agency designated by the court, shall request information from the victim to determine the amount of restitution owed. The court or its designee shall obtain the information from the victim in affidavit form or by other competent evidence. Information submitted relating to restitution must describe the items or elements of loss, itemize the total dollar amounts of restitution claimed, and specify the reasons justifying these amounts, if restitution is in the form of money or property. A request for restitution may include, but is not limited to, any out-of-pocket losses



resulting from the crime, including medical and therapy costs, replacement of wages and services, expenses incurred to return a child who was a victim of a crime under section 609.26 to the child's parents or lawful custodian, and funeral expenses. An actual or prospective civil action involving the alleged crime shall not be used by the court as a basis to deny a victim's right to obtain court-ordered restitution under this section. In order to be considered at the sentencing or dispositional hearing, all information regarding restitution must be received by the court administrator of the appropriate court at least three business days before the sentencing or dispositional hearing. The court administrator shall provide copies of this request to the prosecutor and the offender or the offender's attorney at least 24 hours before the sentencing or dispositional hearing. The issue of restitution is reserved or the sentencing or dispositional hearing or hearing on the restitution request may be continued if the victim's affidavit or other competent evidence submitted by the victim is not received in time. At the sentencing or dispositional hearing, the court shall give the offender an opportunity to respond to specific items of restitution and their dollar amounts in accordance with the procedures established in section 611A.045, subdivision 3.

(b) The court may amend or issue an order of restitution after the sentencing or dispositional hearing if:

(1) the offender is on probation, committed to the commissioner of corrections, or on supervised release;

(2) sufficient evidence of a right to restitution has been submitted; and

(3) the true extent of the victim's loss or the loss of the crime victims reparations board was not known at the time of the sentencing or dispositional hearing, or hearing on the restitution request.

If the court holds a hearing on the restitution request, the court must notify the offender, the offender's attorney, the victim, the prosecutor, and the crime victims reparations board at least five business days before the hearing. The court's restitution decision is governed by this section and section 611A.045.

(c) The court shall grant or deny restitution or partial restitution and shall state on the record its reasons for its decision on restitution if information relating to restitution has been presented. If the court grants partial restitution it shall also specify the full amount of restitution that may be docketed as a civil judgment under subdivision 3. The court may not require that the victim waive or otherwise forfeit any rights or causes of action as a condition of granting restitution or partial restitution. In the case of a defendant who is on probation, the court may not refuse to enforce an order for restitution solely on the grounds that the order has been docketed as a civil judgment.

**Subd. 1a. Crime board request.** The crime victims reparations board may request restitution on behalf of a victim by filing a copy of orders of the board, if any, which detail any amounts paid by the board to the victim. The board may file the payment order with the court administrator or with the person or agency the court has designated to obtain information relating to restitution. The board shall submit the payment order not less than three business days after it is issued by the board. The court administrator shall provide copies of the payment order to the prosecutor and the offender or the offender's attorney within 48 hours of receiving it from the board or at least 24 hours before the sentencing or dispositional hearing, whichever is earlier. By operation of law, the issue of restitution is reserved if the payment order is not received at least three days before the sentencing or dispositional hearing. The filing of a payment order for reparations with the court administrator shall also serve as a request for restitution by the victim. The restitution requested by the board may be considered to be both on its own behalf and on behalf of the victim. If the board has not paid reparations to the victim or on the victim's behalf, restitution may be made directly to the victim. If the board has paid reparations to the victim or on the victim's behalf, the court shall order restitution payments to be made directly to the board.

**Subd. 1b. Affidavit of disclosure.** An offender who has been ordered by the court to make restitution in an amount of \$500 or more shall file an affidavit of financial disclosure with the correctional agency responsible for investigating the financial

resources of the offender on request of the agency. The commissioner of corrections shall prescribe what financial information the affidavit must contain.

**Subd. 2. Procedures.** The offender shall make restitution payments to the court administrator of the county, municipal, or district court of the county in which the restitution is to be paid. The court administrator shall disburse restitution in incremental payments and may not keep a restitution payment for longer than 30 days; except that the court administrator is not required to disburse a restitution payment that is under \$10 unless the payment would fulfill the offender's restitution obligation. The court administrator shall keep records of the amount of restitution ordered in each case, any change made to the restitution order, and the amount of restitution actually paid by the offender. The court administrator shall forward the data collected to the state court administrator who shall compile the data and make it available to the supreme court and the legislature upon request.

**Subd. 3. Effect of order for restitution.** An order of restitution may be enforced by any person named in the order to receive the restitution, or by the crime victims reparations board in the same manner as a judgment in a civil action. Any order for restitution in favor of a victim shall also operate as an order for restitution in favor of the crime victims reparations board, if the board has paid reparations to the victim or on the victim's behalf. Filing fees for docketing an order of restitution as a civil judgment are waived for any victim named in the restitution order. An order of restitution shall be docketed as a civil judgment, in the name of any person named in the order and in the name of the crime victims reparations board, by the court administrator of the district court in the county in which the order of restitution was entered. The court administrator also shall notify the commissioner of revenue of the restitution debt in the manner provided in chapter 270A, the Revenue Recapture Act. A juvenile court is not required to appoint a guardian ad litem for a juvenile offender before docketing a restitution order. Interest shall accrue on the unpaid balance of the judgment as provided in section 549.09. Whether the order of restitution has been docketed or not, it is a debt that is not dischargeable in bankruptcy. 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 611A.61 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.

**Subd. 4. Payment of restitution.** When the court orders both the payment of restitution and the payment of a fine and the defendant does not pay the entire amount of court-ordered restitution and the fine, at the same time, the court may order that all restitution shall be paid before the fine is paid.

**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:** 1983 c 262 art 1 s 4,6; 1985 c 110 s 1; 1986 c 463 s 10; 1Sp1986 c 3 art 1 s 82; 1987 c 244 s 2; 1987 c 254 s 11; 1989 c 21 s 4-6; 1990 c 579 s 8; 1991 c 211 s 1; 1992 c 571 art 5 s 6,7; 1993 c 326 art 6 s 8-10; 1994 c 636 art 7 s 3; 1995 c 226 art 7 s 9; 1996 c 408 art 7 s 6-8; 1997 c 239 art 7 s 24; 1999 c 136 s 1

#### 611A.045 PROCEDURE FOR ISSUING ORDER OF RESTITUTION.

**Subdivision 1. Criteria.** (a) The court, in determining whether to order restitution and the amount of the restitution, shall consider the following factors:

- (1) the amount of economic loss sustained by the victim as a result of the offense; and
- (2) the income, resources, and obligations of the defendant.

(b) If there is more than one victim of a crime, the court shall give priority to victims who are not governmental entities when ordering restitution.

Subd. 2. **Presentence investigation.** The presentence investigation report made pursuant to section 609.115, subdivision 1, must contain information pertaining to the factors set forth in subdivision 1.

Subd. 2a. **Payment structure.** The court shall include in every restitution order a provision requiring a payment schedule or structure. The court may assign the responsibility for developing the schedule or structure to the court administrator, a probation officer, or another designated person. The person who develops the payment schedule or structure shall consider relevant information supplied by the defendant. If the defendant is placed on supervised probation, the payment schedule or structure must be incorporated into the probation agreement and must provide that the obligation to pay restitution continues throughout the term of probation. If the defendant is not placed on probation, the structure or schedule must provide that the obligation to pay restitution begins no later than 60 days after the restitution order is issued.

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:** 1985 c 110 s 2; 1989 c 21 s 7; 1994 c 636 art 7 s 4; 1997 c 239 art 7 s 25; 1999 c 38 s 1

#### **611A.046 VICTIM'S RIGHT TO REQUEST PROBATION REVIEW HEARING.**

A victim has the right to ask the offender's probation officer to request a probation review hearing if the offender fails to pay restitution as required in a restitution order.

**History:** 1989 c 21 s 8

#### **611A.05 PENALTIES NO BAR TO CIVIL REMEDIES.**

The provision in any law for a penalty or forfeiture for its violation shall not be construed to deprive an injured person of the right to recover from the offender damages sustained by reason of the violation of such law.

**History:** 1941 c 492 s 23; 1983 c 262 art 1 s 6

#### **611A.06 RIGHT TO NOTICE OF RELEASE.**

Subdivision 1. **Notice of release required.** 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, including release on extended furlough and for work release; released from a juvenile correctional facility; released from a facility in which the offender was confined due to incompetency, mental illness, or mental deficiency, or commitment under section 253B.18 or

253B.185; or if the offender's custody status is reduced, if 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 good faith effort to notify the victim must occur prior to the offender's release or when the offender's custody status is reduced. For a victim of a felony crime against the person for which the offender was sentenced to imprisonment for more than 18 months, the good faith effort to notify the victim must occur 60 days before the offender's release.

**Subd. 1a. Notice of expungement required.** The prosecuting authority with jurisdiction over an offense for which expungement is being sought shall make a good faith effort to notify a victim that the expungement is being sought if: (1) the victim has mailed to the prosecuting authority with jurisdiction over an offense for which expungement is being sought a written request for this notice, or (2) the victim has indicated on a request for notice of expungement submitted under subdivision 1 a desire to be notified in the event the offender seeks an expungement for the offense.

A copy of any written request for a notice of expungement request received by the commissioner of corrections or other custodial authority shall be forwarded to the prosecutorial authority with jurisdiction over the offense to which the notice relates. The prosecutorial authority complies with this section upon mailing a copy of an expungement petition relating to the notice to the address which the victim has most recently provided in writing.

**Subd. 2. Contents of notice.** The notice given to a victim of a crime against a person must include the conditions governing the offender's release, and either the identity of the corrections agent who will be supervising the offender's release or a means to identify the court services agency that will be supervising the offender's release. The commissioner or other custodial authority complies with this section upon mailing the notice of impending release to the victim at the address which the victim has most recently provided to the commissioner or authority in writing.

**Subd. 3. Notice of escape.** If an offender escapes from imprisonment or incarceration, including from release on extended furlough or work release, or from any facility described in subdivision 1, the commissioner or other custodial authority shall make all reasonable efforts to notify a victim who has requested notice of the offender's release under subdivision 1 within six hours after discovering the escape and shall also make reasonable efforts to notify the victim within 24 hours after the offender is apprehended.

**Subd. 4. Private data.** All identifying information regarding the victim, including the victim's request and the notice provided by the commissioner or custodial authority, is classified as private data on individuals, as defined in section 13.02, subdivision 12, and is accessible only to the victim.

**Subd. 5. Definition.** As used in this section, "crime against the person" means a crime listed in section 611A.031.

**History:** 1983 c 262 art 1 s 5; 1986 c 444; 1986 c 445 s 4; 1986 c 463 s 11; 1987 c 224 s 3; 1988 c 649 s 4; 1989 c 190 s 4; 1990 c 579 s 9; 1991 c 170 s 5; 1993 c 326 art 6 s 11; art 13 s 35; 1994 c 636 art 7 s 5; 1Sp1994 c 1 art 2 s 33; 2001 c 209 s 7

## ELECTRONIC MONITORING

### 611A.07 ELECTRONIC MONITORING TO PROTECT DOMESTIC ABUSE VICTIMS; STANDARDS.

**Subdivision 1. Generally.** The commissioner of corrections, after considering the recommendations of the advisory council on battered women and domestic abuse and the sexual assault advisory council, and in collaboration with the commissioner of public safety, shall adopt standards governing electronic monitoring devices used to protect victims of domestic abuse. In developing proposed standards, the commissioner shall consider the experience of the courts in the tenth judicial district in the use of the devices to protect victims of domestic abuse. These standards shall promote the safety

of the victim and shall include measures to avoid the disparate use of the device with communities of color, product standards, monitoring agency standards, and victim disclosure standards.

Subd. 2. [Repealed, 1996 c 310 s 1]

**History:** 1992 c 571 art 6 s 20; 2000 c 445 art 2 s 9

### BARRING PERPETRATOR RECOVERY

#### 611A.08 BARRING PERPETRATORS OF CRIMES FROM RECOVERING FOR INJURIES SUSTAINED DURING CRIMINAL CONDUCT.

Subdivision 1. **Definitions.** As used in this section:

(1) "perpetrator" means a person who has engaged in criminal conduct and includes a person convicted of a crime;

(2) "victim" means a person who was the object of another's criminal conduct and includes a person at the scene of an emergency who gives reasonable assistance to another person who is exposed to or has suffered grave physical harm;

(3) "course of criminal conduct" includes the acts or omissions of a victim in resisting criminal conduct; and

(4) "convicted" includes a finding of guilt, whether or not the adjudication of guilt is stayed or executed, an unwithdrawn judicial admission of guilt or guilty plea, a no contest plea, a judgment of conviction, an adjudication as a delinquent child, an admission to a juvenile delinquency petition, or a disposition as an extended jurisdiction juvenile.

Subd. 2. **Perpetrator's assumption of the risk.** A perpetrator assumes the risk of loss, injury, or death resulting from or arising out of a course of criminal conduct involving a violent crime, as defined in this section, engaged in by the perpetrator or an accomplice, as defined in section 609.05, and the crime victim is immune from and not liable for any civil damages as a result of acts or omissions of the victim if the victim used reasonable force as authorized in section 609.06 or 609.065.

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.

Subd. 4. **Attorney's fees to victim.** If the perpetrator does not prevail in a civil action that is subject to this section, the court may award reasonable expenses, including attorney's fees and disbursements, to the victim.

Subd. 5. **Stay of civil action.** Except to the extent needed to preserve evidence, any civil action in which the defense set forth in subdivision 1 or 2 is raised shall be stayed by the court on the motion of the defendant during the pendency of any criminal action against the plaintiff based on the alleged violent crime.

Subd. 6. **Violent crime; definition.** For purposes of this section, "violent crime" means an offense named in sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.342; 609.343; 609.344; 609.345; 609.561; 609.562; 609.563; and 609.582, or an attempt to commit any of these offenses. "Violent crime" includes crimes in other states or jurisdictions which would have been within the definition set forth in this subdivision if they had been committed in this state.

**History:** 1995 c 226 art 6 s 15; 1999 c 139 art 4 s 2

**SEX OFFENDER HIV TESTING****611A.19 TESTING OF SEX OFFENDER FOR HUMAN IMMUNODEFICIENCY VIRUS.**

Subdivision 1. **Testing on request of victim.** (a) Upon the request or with the consent of the victim, the prosecutor shall make a motion in camera and the sentencing court shall issue an order requiring an adult convicted of or a juvenile adjudicated delinquent for violating section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or any other violent crime, as defined in section 609.1095, to submit to testing to determine the presence of human immunodeficiency virus (HIV) antibody if:

(1) the crime involved sexual penetration, however slight, as defined in section 609.341, subdivision 12; or

(2) evidence exists that the broken skin or mucous membrane of the victim was exposed to or had contact with the offender's semen or blood during the commission of the crime in a manner which has been demonstrated epidemiologically to transmit the human immunodeficiency virus (HIV).

(b) When the court orders an offender to submit to testing under paragraph (a), the court shall order that the test be performed by an appropriate health professional who is trained to provide the counseling described in section 144.7414, and that no reference to the test, the motion requesting the test, the test order, or the test results may appear in the criminal record or be maintained in any record of the court or court services, except in the medical record maintained by the department of corrections.

Subd. 2. **Disclosure of test results.** The date and results of a test performed under subdivision 1 are private data as defined in section 13.02, subdivision 12, when maintained by a person subject to chapter 13, or may be released only with the subject's consent, if maintained by a person not subject to chapter 13. The results are available, on request, to the victim or, if the victim is a minor, to the victim's parent or guardian and positive test results shall be reported to the commissioner of health. Any test results given to a victim or victim's parent or guardian shall be provided by a health professional who is trained to provide the counseling described in section 144.7414. Data regarding administration and results of the test are not accessible to any other person for any purpose and shall not be maintained in any record of the court or court services or any other record. After the test results are given to the victim or the victim's parent or guardian, data on the test must be removed from any medical data or health records maintained under section 13.384 or 144.335 and destroyed, except for those medical records maintained by the department of corrections.

**History:** 1992 c 569 s 27; 1994 c 636 art 7 s 6; 1995 c 226 art 7 s 10; 1998 c 367 art 6 s 15; 1999 c 227 s 22; 2000 c 422 s 53,54; 2001 c 202 s 16; 2001 c 210 s 27

**NOTICE OF RISK OF SEXUALLY TRANSMITTED DISEASE****611A.20 NOTICE OF RISK OF SEXUALLY TRANSMITTED DISEASE.**

Subdivision 1. **Notice required.** A hospital shall give a written notice about sexually transmitted diseases to a person receiving medical services in the hospital who reports or evidences a sexual assault or other unwanted sexual contact or sexual penetration. When appropriate, the notice must be given to the parent or guardian of the victim.

Subd. 2. **Contents of notice.** The commissioners of public safety and corrections, in consultation with sexual assault victim advocates and health care professionals, shall develop the notice required by subdivision 1. The notice must inform the victim of:

- (1) the risk of contracting sexually transmitted diseases as a result of a sexual assault;
- (2) the symptoms of sexually transmitted diseases;
- (3) recommendations for periodic testing for the diseases, where appropriate;

(4) locations where confidential testing is done and the extent of the confidentiality provided;

(5) information necessary to make an informed decision whether to request a test of the offender under section 611A.19; and

(6) other medically relevant information.

**History:** 1990 c 436 s 1; 1992 c 569 s 28

## DOMESTIC VIOLENCE AND SEXUAL ASSAULT PREVENTION

### 611A.201 DIRECTOR OF PREVENTION OF DOMESTIC VIOLENCE AND SEXUAL ASSAULT.

**Subdivision 1. Appointment of director.** The executive director of the center for crime victim services shall appoint a person to serve as director of domestic violence and sexual assault prevention in the center. The director must have experience in domestic violence and sexual assault prevention issues. The director serves at the executive director's pleasure in the unclassified service. The executive director may appoint, supervise, discipline, and discharge employees to assist the director in carrying out the director's responsibilities under this section.

**Subd. 2. Director's responsibilities.** The director shall have the following duties:

(1) advocate for the rights of victims of domestic violence and sexual assault;

(2) increase public education and visibility about the prevention of domestic violence and sexual assault;

(3) encourage accountability regarding domestic violence and sexual assault at all levels of the system, and develop recommendations to improve accountability when the system fails;

(4) support prosecution and civil litigation efforts regarding domestic violence and sexual assault at the federal and state levels;

(5) study issues involving domestic violence and sexual assault as they pertain to both men and women and present findings and recommendations resulting from these studies to all branches of government;

(6) initiate policy changes regarding domestic violence and sexual assault at all levels of government;

(7) coordinate existing resources and promote coordinated and immediate community responses to better serve victims of domestic violence and sexual assault;

(8) build partnerships among law enforcement, prosecutors, defenders, advocates, and courts to reduce the occurrence of domestic violence and sexual assault;

(9) encourage and support the efforts of health care providers, mental health experts, employers, educators, clergy members, and others, in raising awareness of and addressing how to prevent domestic violence and sexual assault;

(10) coordinate and maximize the use of federal, state, and local resources available to prevent domestic violence and sexual assault and leverage more resources through grants and private funding; and

(11) serve as a liaison between the executive director of the center for crime victim services and the commissioner of health with regard to the department of health's sexual violence prevention program funded by federal block grants, and oversee how this money is spent.

**Subd. 3. Service as chair of interagency task force.** The director shall serve as the chair of the interagency task force described in section 611A.202.

**Subd. 4. Annual report.** By January 15 of each year, the director shall report to the governor and the legislature on matters within the director's jurisdiction. In addition to other issues deemed relevant by the director, the report may include recommendations for changes in policies and laws relating to domestic violence and sexual assault prevention.

Subd. 5. **Other responsibilities.** In addition to those described in this section, the executive director of the center may assign other appropriate responsibilities to the director.

**History:** 2000 c 368 s 1; 1Sp2001 c 8 art 10 s 17

### 611A.202 INTERAGENCY TASK FORCE ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT PREVENTION.

Subdivision 1. **Task force membership.** The interagency task force on domestic violence and sexual assault prevention consists of the following individuals, or their designees:

- (1) the director of domestic violence and sexual assault prevention;
- (2) the director of the department of public safety's office of drug policy and violence prevention;
- (3) a representative of the department of children, families, and learning who is responsible for or knowledgeable about violence prevention issues, child visitation, and abused children's programs within the department's jurisdiction; appointed by the commissioner of children, families, and learning;
- (4) a representative of the department of corrections who is responsible for or knowledgeable about violence prevention and restorative justice issues within the department's jurisdiction; appointed by the commissioner of corrections;
- (5) a representative of the department of health who is responsible for or knowledgeable about family and public health violence prevention issues within the department's jurisdiction; appointed by the commissioner of health;
- (6) a representative of the department of human services who is responsible for or knowledgeable about violence prevention issues within the department's jurisdiction; appointed by the commissioner of human services;
- (7) a representative of the department of economic security who is responsible for or knowledgeable about violence prevention issues within the department's jurisdiction; appointed by the commissioner of economic security;
- (8) a county attorney knowledgeable in domestic violence and sexual assault issues; appointed by the Minnesota county attorney's association;
- (9) a judge knowledgeable in domestic violence and sexual assault issues; appointed by the chief justice of the supreme court;
- (10) a city attorney knowledgeable in domestic violence and sexual assault issues; appointed by the league of Minnesota cities;
- (11) a representative from the United States Attorney's office knowledgeable in domestic violence and sexual assault issues; appointed by the United States Attorney;
- (12) the attorney general, or a designee;
- (13) a representative from the Minnesota coalition for battered women; appointed by the coalition;
- (14) a representative from the Minnesota coalition against sexual assault; appointed by the coalition;
- (15) a representative from a battered women shelter; appointed by the commissioner of public safety;
- (16) the executive director of the center for crime victim services; and
- (17) a peace officer knowledgeable in domestic violence and sexual assault issues; appointed by the commissioner of public safety.

Subd. 2. **Chair; staff.** The director of domestic violence and sexual assault prevention shall serve as the task force's chair and provide necessary staff to assist the task force.

Subd. 3. **Objectives.** The task force shall work to promote the objectives described in section 611A.201, subdivision 2, and prepare the strategic plan and evaluations described in subdivision 4.



Subd. 4. **Strategic plan; evaluation.** (a) By January 15, 2001, the task force shall submit a strategic plan on domestic violence and sexual assault prevention to the governor and legislature. The plan must include:

(1) recommendations on how to reduce incidents of domestic violence and sexual assault;

(2) recommendations on how to coordinate existing resources at the federal, state, and local levels to reduce incidents of domestic violence and sexual assault; including specific proposals on how these entities may cooperate better;

(3) recommendations for changes in policies and laws to reduce incidents of domestic violence and sexual assault;

(4) recommendations on the need for increased services and resources to reduce incidents of domestic violence and sexual assault; and

(5) other items deemed appropriate by the task force.

(b) By January 15 of each year, the task force shall evaluate the progress made in reducing domestic violence and sexual assaults during the preceding year. The evaluation must detail the response to the strategic plan described in paragraph (a), including the progress, if any, made towards implementing each of its recommendations. The evaluation must also assess the successes and failures of the director of domestic violence and sexual assault prevention in achieving the director's objectives.

Subd. 5. **Safe council.** To the degree feasible, the task force shall cooperate and coordinate its activities with the SAFE council.

Subd. 6. **Expiration and compensation.** Notwithstanding section 15.059, the task force expires June 30, 2005. Task force members may receive expense reimbursements as provided in section 15.059. Task force members who are not public employees may receive compensation for serving as provided in section 15.059.

**History:** 2000 c 368 s 2

### PROGRAM TO AID VICTIMS OF SEXUAL ATTACKS

#### 611A.21 DEVELOPMENT OF STATEWIDE PROGRAM; DEFINITION; SERVICES.

Subdivision 1. The commissioner of corrections shall develop a community based, statewide program to aid victims of reported sexual attacks.

Subd. 2. As used in sections 611A.21 and 611A.221, a "sexual attack" means any nonconsensual act of rape, sodomy, or indecent liberties.

Subd. 3. The program developed by the commissioner of corrections may include, but not be limited to, provision of the following services:

(a) Voluntary counseling by trained personnel to begin as soon as possible after a sexual attack is reported. The counselor shall be of the same sex as the victim and shall, if requested, accompany the victim to the hospital and to other proceedings concerning the alleged attack, including police questioning, police investigation, and court proceedings. The counselor shall also inform the victim of hospital procedures, police and court procedures, the possibility of contracting venereal disease, the possibility of pregnancy, expected emotional reactions and any other relevant information; and shall make appropriate referrals for any assistance desired by the victim.

(b) Payment of all costs of any medical examinations and medical treatment which the victim may require as a result of the sexual attack if the victim is not otherwise reimbursed for these expenses or is ineligible to receive compensation under any other law of this state or of the United States.

**History:** 1974 c 578 s 1; 1983 c 262 art 1 s 6; 1998 c 254 art 1 s 103

#### 611A.22 POWERS OF COMMISSIONER.

In addition to developing the statewide program, the commissioner of corrections may:

(a) assist and encourage county attorneys to assign prosecuting attorneys trained in sensitivity and understanding of victims of sexual attacks;

(b) assist the peace officers training board and municipal police forces to develop programs to provide peace officers training in sensitivity and understanding of victims of sexual attacks; and encourage the assignment of trained peace officers of the same sex as the victim to conduct all necessary questioning of the victim;

(c) encourage hospital administrators to place a high priority on the expeditious treatment of victims of sexual attacks; and to retain personnel trained in sensitivity and understanding of victims of sexual attacks.

**History:** 1974 c 578 s 2; 1983 c 262 art 1 s 6

#### 611A.221 ADDITIONAL POWER.

The department of correction's victim service unit is authorized to accept and expend funds received from other state agencies, other units of governments and other agencies, that result from the distribution of resource materials.

**History:** 1Sp1985 c 4 s 22

611A.23 [Repealed, 1996 c 310 s 1]

611A.24 [Repealed, 1985 c 262 s 7]

#### 611A.25 SEXUAL ASSAULT ADVISORY COUNCIL.

Subdivision 1. **Creation.** The commissioner of corrections shall appoint a 12-member advisory council on sexual assault to advise the commissioner on the implementation and continued operation of sections 611A.21 and 611A.221. The sexual assault advisory council shall also serve as a liaison between the commissioner and organizations that provide services to victims of sexual assault, and as an advocate within the department of corrections for the rights of sexual assault victims.

Subd. 2. **Membership.** No more than six of the members of the sexual assault advisory council may be representatives of community or governmental organizations that provide services to sexual assault victims. One-half of the council's members shall reside in the metropolitan area, composed of Hennepin, Ramsey, Anoka, Dakota, Scott, Washington, and Carver counties, and one-half of the members shall reside in the nonmetropolitan area. To the extent possible, nonmetropolitan members must be representative of all nonmetropolitan regions of the state.

Subd. 3. **Terms; vacancies; expenses.** Section 15.059 governs the filling of vacancies and removal of members of the sexual assault advisory council. The terms of the members of the advisory council shall be two years. No member may serve on the advisory council for more than two consecutive terms. The council expires on June 30, 2003. Council members shall receive expense reimbursement as specified in section 15.059.

Subd. 4. [Repealed, 1991 c 272 s 20]

Subd. 5. **Duties.** In addition to other duties, the advisory council shall advise the director of domestic violence and sexual assault prevention in matters related to preventing occurrences of these types of violence.

**History:** 1991 c 272 s 7; 1996 c 408 art 7 s 9; 1997 c 239 art 7 s 26; 1998 c 254 art 1 s 104; 2000 c 368 s 3; 1Sp2001 c 8 art 5 s 12

### BATTERED WOMEN

#### 611A.31 DEFINITIONS.

Subdivision 1. For the purposes of sections 611A.31 to 611A.36, the following terms have the meanings given.

Subd. 2. "Battered woman" means a woman who is being or has been victimized by domestic abuse as defined in section 518B.01, subdivision 2.

Subd. 3. "Emergency shelter services" include, but are not limited to, secure crisis shelters for battered women and housing networks for battered women.

Subd. 4. "Support services" include, but are not limited to, advocacy services, legal services, counseling services, transportation services, child care services, and 24 hour information and referral services.

Subd. 5. "Commissioner" means the commissioner of the department of corrections or a designee.

**History:** 1977 c 428 s 1; 1983 c 262 art 1 s 6; 1986 c 444; 1991 c 272 s 8; 1995 c 226 art 7 s 11

### 611A.32 BATTERED WOMEN PROGRAMS.

Subdivision 1. **Grants awarded.** The commissioner shall award grants to programs which provide emergency shelter services to battered women and support services to battered women and domestic abuse victims and their children. The commissioner shall also award grants for training, technical assistance, and for the development and implementation of education programs to increase public awareness of the causes of battering, the solutions to preventing and ending domestic violence, and the problems faced by battered women and domestic abuse victims. Grants shall be awarded in a manner that ensures that they are equitably distributed to programs serving metropolitan and nonmetropolitan populations. By July 1, 1995, community-based domestic abuse advocacy and support services programs must be established in every judicial assignment district.

Subd. 1a. **Program for American Indian women.** The commissioner shall establish at least one program under this section to provide emergency shelter services and support services to battered American Indian women. The commissioner shall grant continuing operating expenses to the program established under this subdivision in the same manner as operating expenses are granted to programs established under subdivision 1.

Subd. 2. **Applications.** Any public or private nonprofit agency may apply to the commissioner for a grant to provide emergency shelter services to battered women, support services to domestic abuse victims, or both, to battered women and their children. The application shall be submitted in a form approved by the commissioner by rule adopted under chapter 14, after consultation with the advisory council, and shall include:

(1) a proposal for the provision of emergency shelter services for battered women, support services for domestic abuse victims, or both, for battered women and their children;

(2) a proposed budget;

(3) evidence of an ability to integrate into the proposed program the uniform method of data collection and program evaluation established under sections 611A.33 and 611A.34;

(4) evidence of an ability to represent the interests of battered women and domestic abuse victims and their children to local law enforcement agencies and courts, county welfare agencies, and local boards or departments of health;

(5) evidence of an ability to do outreach to underserved and underserved populations and to provide culturally and linguistically appropriate services; and

(6) any other content the commissioner may require by rule adopted under chapter 14, after considering the recommendations of the advisory council.

Programs which have been approved for grants in prior years may submit materials which indicate changes in items listed in clauses (1) to (6), in order to qualify for renewal funding. Nothing in this subdivision may be construed to require programs to submit complete applications for each year of renewal funding.

Subd. 3. **Duties of grantees.** Every public or private nonprofit agency which receives a grant to provide emergency shelter services to battered women and support

services to battered women and domestic abuse victims shall comply with all rules of the commissioner related to the administration of the pilot programs.

Subd. 4. [Repealed, 1991 c 272 s 20]

Subd. 5. **Classification of data collected by grantees.** Personal history information and other information collected, used or maintained by a grantee from which the identity or location of any victim of domestic abuse may be determined is private data on individuals, as defined in section 13.02, subdivision 12, and the grantee shall maintain the data in accordance with the provisions of chapter 13.

**History:** 1977 c 428 s 2; 1978 c 732 s 1-3; 1981 c 311 s 39; 1Sp1981 c 4 art 1 s 14; 1982 c 545 s 24; 1983 c 262 art 1 s 6; 1988 c 689 art 2 s 237; 1991 c 272 s 9,10; 1992 c 571 art 6 s 21; 2000 c 445 art 2 s 10-13

### 611A.33 DUTIES OF COMMISSIONER.

The commissioner shall:

- (1) review applications for and award grants to a program pursuant to section 611A.32, subdivision 1, after considering the recommendation of the advisory council;
- (2) appoint the members of the advisory council created under section 611A.34, and provide consultative staff and other administrative services to the advisory council;
- (3) after considering the recommendation of the advisory council, appoint a program director to perform the duties set forth in section 611A.35;
- (4) design and implement a uniform method of collecting data on domestic abuse victims to be used to evaluate the programs funded under section 611A.32;
- (5) provide technical aid to applicants in the development of grant requests and provide technical aid to programs in meeting the data collection requirements established by the commissioner; and
- (6) adopt, under chapter 14, all rules necessary to implement the provisions of sections 611A.31 to 611A.36.

**History:** 1977 c 428 s 3; 1978 c 732 s 4; 1983 c 262 art 1 s 6; 1991 c 272 s 11; 2000 c 445 art 2 s 14

### 611A.34 ADVISORY COUNCIL ON BATTERED WOMEN.

Subdivision 1. **Generally.** The commissioner shall appoint a 12-member advisory council to advise the commissioner on the implementation and continued operation of sections 611A.31 to 611A.36. The advisory council on battered women and domestic abuse shall also serve as a liaison between the commissioner and organizations that provide services to battered women and domestic abuse victims. Section 15.059 governs the filling of vacancies and removal of members of the advisory council. The terms of the members of the advisory council shall be two years. No member may serve on the advisory council for more than two consecutive terms. Notwithstanding section 15.059, the council shall not expire. Council members shall not receive per diem, but shall receive expenses in the same manner and amount as state employees.

Subd. 2. **Membership.** Persons appointed shall be knowledgeable about and have experience or interest in issues concerning battered women and domestic abuse victims, including the need for effective advocacy services. The membership of the council shall broadly represent the interests of battered women and domestic abuse victims in Minnesota. No more than six of the members of the advisory council on battered women and domestic abuse may be representatives of community or governmental organizations that provide services to battered women and domestic abuse victims. One-half of the council's members shall reside in the metropolitan area, composed of Hennepin, Ramsey, Anoka, Dakota, Scott, Washington, and Carver counties, and one-half of the members shall reside in the nonmetropolitan area. To the extent possible, nonmetropolitan members must be representative of all nonmetropolitan regions of the state.

Subd. 3. **Duties.** The advisory council shall:

(1) advise the commissioner on all planning, development, data collection, rule-making, funding, and evaluation of programs and services for battered women and domestic abuse victims that are funded under section 611A.32, other than matters of a purely administrative nature;

(2) advise the commissioner on the adoption of rules under chapter 14 governing the award of grants to ensure that funded programs are consistent with section 611A.32, subdivision 1;

(3) recommend to the commissioner the names of five applicants for the position of domestic abuse program director;

(4) advise the commissioner on the rules adopted under chapter 14 pursuant to section 611A.33;

(5) review applications received by the commissioner for grants under section 611A.32 and make recommendations on the awarding of grants;

(6) advise the program director in the performance of duties in the administration and coordination of the programs funded under section 611A.32; and

(7) advise the director of domestic violence and sexual assault prevention in matters related to preventing these occurrences of these types of violence.

Subd. 4. **Conflicts of interest.** A member of the advisory council shall be excluded from participating in review and recommendations concerning a grant application if the member:

(1) serves or has served at any time during the past three years as an employee, volunteer, or governing board member of an organization whose application is being reviewed; or

(2) has a financial interest in the funding of the applicant organization.

**History:** 1977 c 428 s 4; 1983 c 260 s 50; 1983 c 262 art 1 s 6; 1984 c 655 art 1 s 36,37; 1Sp1985 c 9 art 2 s 97; 1986 c 444; 1988 c 629 s 60; 1991 c 272 s 12; 2000 c 368 s 4; 2000 c 445 art 2 s 15-17

#### 611A.345 ADVISORY COUNCIL RECOMMENDATIONS.

The commissioner shall consider the advisory council's recommendations before awarding grants or adopting policies regarding the planning, development, data collection, rulemaking, funding or evaluation of programs and services for battered women and domestic abuse victims funded under section 611A.32. Before taking action on matters related to programs and services for battered women and domestic abuse victims and their children, except day-to-day administrative operations, the commissioner shall notify the advisory council of the intended action. Notification of grant award decisions shall be given to the advisory council in time to allow the council to request reconsideration.

**History:** 1991 c 272 s 13; 2000 c 445 art 2 s 18

#### 611A.35 ADVISORY COUNCIL ON BATTERED WOMEN AND DOMESTIC ABUSE PROGRAM DIRECTOR.

The commissioner shall appoint a program director. In appointing the program director the commissioner shall give due consideration to the list of applicants submitted to the commissioner pursuant to section 611A.34, subdivision 3, clause (3). The program director shall administer the funds appropriated for sections 611A.31 to 611A.36, consult with and provide staff to the advisory council, and perform other duties related to battered women's and domestic abuse programs as the commissioner may assign. The program director shall serve at the pleasure of the commissioner in the unclassified service.

**History:** 1977 c 428 s 5; 1983 c 262 art 1 s 6; 1986 c 444; 1991 c 272 s 14; 2000 c 445 art 2 s 19

**611A.36 DATA COLLECTION.**

Subdivision 1. **Form prescribed.** The commissioner shall, by rule adopted under chapter 14, after considering the recommendations of the advisory council, prescribe a uniform form and method for the collection of data on domestic abuse victims. The method and form of data collection shall be designed to document the incidence of assault on domestic abuse victims as defined in section 611A.31, subdivision 2. All data collected by the commissioner pursuant to this section shall be summary data within the meaning of section 13.02, subdivision 19.

Subd. 2. **Mandatory data collection.** Every local law enforcement agency shall collect data related to domestic abuse victims in the form required by the commissioner. The data shall be collected and transmitted to the commissioner at such times as the commissioner shall, by rule, require.

Subd. 3. **Immunity from liability.** Any person participating in good faith and exercising due care in the collection and transmission of data pursuant to this section shall have immunity from any liability, civil or criminal, that otherwise might result by reason of the person's action.

**History:** 1977 c 428 s 6; 1978 c 732 s 5,6; 1981 c 311 s 39; 1982 c 545 s 24; 1983 c 262 art 1 s 6; 1984 c 654 art 5 s 17; 1986 c 444; 1991 c 272 s 15; 2000 c 445 art 2 s 20,21

**611A.361 GENERAL CRIME VICTIMS ADVISORY COUNCIL.**

Subdivision 1. **Creation.** The commissioner of corrections shall appoint a 12-member advisory council on general crime victims to advise the commissioner on the implementation and continued operation of chapter 611A with respect to victims of crimes other than sexual assault and domestic abuse. The general crime victims advisory council shall also serve as a liaison between the commissioner and organizations that provide services to victims of crime, and as an advocate within the department of corrections for the rights of general crime victims.

Subd. 2. **Membership.** No more than six of the members of the general crime victims advisory council may be representatives of community or governmental organizations that provide services to crime victims. One-half of the council's members shall reside in the metropolitan area, composed of Hennepin, Ramsey, Anoka, Dakota, Scott, Washington, and Carver counties, and one-half of the members shall reside in the nonmetropolitan area. To the extent possible, nonmetropolitan members must be representative of all nonmetropolitan regions of the state.

Subd. 3. **Terms; vacancies; expenses.** Section 15.059 governs the filling of vacancies and removal of members of the general crime victims advisory council. The terms of the members of the advisory council shall be two years. No member may serve on the advisory council for more than two consecutive terms. The council expires on June 30, 2003. Council members shall receive expense reimbursement as specified in section 15.059.

Subd. 4. [Repealed, 1991 c 272 s 20]

**History:** 1991 c 272 s 16; 1996 c 408 art 7 s 10; 1997 c 239 art 7 s 27; 1Sp2001 c 8 art 5 s 13

**611A.362** [Renumbered 119A.20]

**611A.363** [Renumbered 119A.21]

**611A.364** [Renumbered 119A.22]

**611A.365** [Renumbered 119A.23]

**SHELTER FACILITY PER DIEM PAYMENTS****611A.37 DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of sections 611A.371 to 611A.375, the terms defined have the meanings given them unless otherwise provided or indicated by the context.

Subd. 2. **Director.** "Director" means the director of the Minnesota center for crime victim services or a designee.

Subd. 3. **Center.** "Center" means the Minnesota center for crime victim services.

Subd. 4. **Shelter facility.** "Shelter facility" means a secure crisis shelter, housing network, safe home, or other facility operated by a nonprofit organization and designated by the center for the purpose of providing food, lodging, safety, and 24-hour coverage for battered women and their children.

Subd. 5. **Designated shelter facility.** "Designated shelter facility" means a facility that has applied to, and been approved by, the center to provide shelter and services to battered women and their children.

Subd. 6. **Per diem rate.** "Per diem rate" means a daily charge per person for providing food, lodging, safety, and 24-hour coverage for battered women and their children.

Subd. 7. **Reserve amount.** "Reserve amount" means the amount the center has reserved for each shelter facility.

Subd. 8. **Battered woman.** "Battered woman" has the meaning given in section 611A.31, subdivision 2.

**History:** 2000 c 445 art 2 s 22

**NOTE:** Subdivisions 6 and 7 are repealed by Laws 2002, chapter 220, article 7, section 33, paragraph (a), effective July 1, 2003. Laws 2002, chapter 220, article 7, section 34.

#### 611A.371 PROGRAM OPERATION.

Subdivision 1. **Purpose.** The purpose of the grant program is to provide reimbursement in a timely, efficient manner to local programs for the reasonable and necessary costs of providing battered women and their children with food, lodging, and safety. Grant funding may not be used for other purposes.

Subd. 2. **Nondiscrimination.** Designated shelter facilities are prohibited from discriminating against a battered woman or her children on the basis of race, color, creed, religion, national origin, marital status, status with regard to public assistance, disability, or sexual orientation.

Subd. 3. **Data.** Personal history information collected, used, or maintained by a designated shelter facility from which the identity or location of any battered woman may be determined is private data on individuals, as defined in section 13.02, subdivision 12, and the facility shall maintain the data in accordance with the provisions of chapter 13.

**History:** 2000 c 445 art 2 s 23; 2002 c 220 art 7 s 16

**NOTE:** The amendment to subdivision 1 by Laws 2002, chapter 220, article 7, section 16, is effective July 1, 2003. Laws 2002, chapter 220, article 7, section 34.

#### 611A.372 DUTIES OF DIRECTOR.

In addition to any other duties imposed by law, the director, with the approval of the commissioner of public safety, shall:

- (1) supervise the administration of grant payments to designated shelter facilities;
- (2) collect data on shelter facilities;
- (3) conduct an annual evaluation of the grant program;
- (4) report to the governor and the legislature on the need for emergency secure shelter;
- (5) develop an application process for shelter facilities to follow in seeking reimbursement under the grant program; and
- (6) adopt rules to implement and administer sections 611A.37 to 611A.375.

**History:** 2000 c 445 art 2 s 24; 2001 c 152 s 1; 2002 c 220 art 7 s 17

**NOTE:** The amendment to this section by Laws 2002, chapter 220, article 7, section 17, is effective July 1, 2003. Laws 2002, chapter 220, article 7, section 34.

**611A.373 PAYMENTS.**

Subdivision 1. **Payment.** Payments to designated shelter facilities must be in the form of a grant. Designated shelter facilities may submit requests for payment monthly based on their expenses. The process for the submission of payments and for the submission of requests may be established by the director. Upon approval of the request for payment by the center, payments shall be made directly to designated shelter facilities from grant funds on behalf of women and their children who reside in the shelter facility. Payments made to a designated shelter facility must not exceed the grant amount for that facility unless approved by the director. These payments must not affect the eligibility of individuals who reside in shelter facilities for public assistance benefits, except when required by federal law or regulation.

Subd. 2. **Reserve grant amount.** The center shall calculate the grant amount for each designated shelter facility. This calculation may be based upon program type, average occupancy rates, and licensed capacity limits. The total of all grant amounts shall not exceed the legislative appropriation.

Subd. 3. **Accountability.** Shelter facilities must comply with reporting requirements and any other measures imposed by the Minnesota center for crime victim services to improve accountability and program outcomes including, but not limited to, information on all restricted or unrestricted fund balances.

**History:** 2000 c 445 art 2 s 25; 2002 c 220 art 7 s 18

**NOTE:** The amendments to subdivisions 1 and 2 by Laws 2002, chapter 220, article 7, section 18, are effective July 1, 2003. Laws 2002, chapter 220, article 7, section 34.

**611A.375 APPEAL PROCESS.**

(a) Except as provided in paragraph (b), a designated shelter facility may, within 30 days after receiving a decision by the center to deny payment, request reconsideration. A designated shelter facility which is denied payment upon reconsideration is entitled to a contested case hearing within the meaning of chapter 14.

(b) A facility may not appeal a decision by the center to deny payments in excess of the facility's reserve amount.

**History:** 2000 c 445 art 2 s 26

**NOTE:** This section is repealed by Laws 2002, chapter 220, article 7, section 33, paragraph (a), effective July 1, 2003. Laws 2002, chapter 220, article 7 section 34.

**CRIME VICTIM CRISIS CENTER****611A.41 CRIME VICTIM CRISIS CENTER.**

Subdivision 1. For the purposes of sections 611A.41 to 611A.41, "center" means a crime victim crisis center providing services to victims of crime.

Subd. 2. The commissioner of corrections, not later than January 1, 1978, shall establish at least two operational centers. The commissioner of corrections may contract with a public or private agency for the purposes of planning, implementing and evaluating the centers established herein.

**History:** 1977 c 314 s 1; 1983 c 262 art 1 s 6

**611A.42 [Repealed, 1996 c 310 s 1]****611A.43 FUNCTIONS.**

The centers shall:

- (a) provide direct crisis intervention to crime victims;
- (b) provide transportation for crime victims to assist them in obtaining necessary emergency services;
- (c) investigate the availability of insurance or other financial resources available to the crime victims;



(d) refer crime victims to public or private agencies providing existing needed services;

(e) encourage the development of services which are not already being provided by existing agencies;

(f) coordinate the services which are already being provided by various agencies;

(g) facilitate the general education of crime victims about the criminal justice process;

(h) educate the public as to program availability;

(i) encourage educational programs which will serve to reduce victimization and which will diminish the extent of trauma where victimization occurs; and

(j) provide other appropriate services.

**History:** 1977 c 314 s 3; 1983 c 262 art 1 s 6; 2000 c 260 s 82

**611A.44** [Repealed, 1996 c 310 s 1]

**611A.46 CLASSIFICATION OF DATA.**

(a) Personal history information and other information collected, used, and maintained by a Minnesota center for crime victim services grantee from which the identity and location of any crime victim may be determined are private data on individuals as defined in section 13.02, subdivision 12, and the grantee shall maintain the data in accordance with the provisions of chapter 13.

(b) Personal history data and other information collected, used, and maintained by the Minnesota center for crime victim services from which the identity and location of any victim may be determined are private data on individuals as defined in section 13.02, subdivision 12.

(c) Internal auditing data shall be classified as provided by section 13.392.

**History:** 2001 c 202 s 17

**CRIME VICTIMS REPARATIONS**

**611A.51 TITLE.**

Sections 611A.51 to 611A.68 shall be known as the Minnesota Crime Victims Reparations Act.

**History:** 1974 c 463 s 1; 1983 c.262 art 1 s 6; 1995 c 226 art 7 s 25

**611A.52 DEFINITIONS.**

Subdivision 1. **Terms.** For the purposes of sections 611A.51 to 611A.68 the following terms shall have the meanings given them.

Subd. 2. **Accomplice.** "Accomplice" means any person who would be held criminally liable for the crime of another pursuant to section 609.05.

Subd. 3. **Board.** "Board" means the crime victims reparations board established by section 611A.55.

Subd. 4. **Claimant.** "Claimant" means a person entitled to apply for reparations pursuant to sections 611A.51 to 611A.68.

Subd. 5. **Collateral source.** "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable under sections 611A.51 to 611A.68 which the victim or claimant has received, or which is readily available to the victim, from:

(1) the offender;

(2) the government of the United States or any agency thereof, a state or any of its political subdivisions, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under sections 611A.51 to 611A.68;

- (3) social security, Medicare, and Medicaid;
- (4) state required temporary nonoccupational disability insurance;
- (5) workers' compensation;
- (6) wage continuation programs of any employer;
- (7) proceeds of a contract of insurance payable to the victim for economic loss sustained because of the crime;
- (8) a contract providing prepaid hospital and other health care services, or benefits for disability;
- (9) any private source as a voluntary donation or gift; or
- (10) proceeds of a lawsuit brought as a result of the crime.

The term does not include a life insurance contract.

Subd. 6. **Crime.** (a) "Crime" means conduct that:

- (1) occurs or is attempted anywhere within the geographical boundaries of this state, including Indian reservations and other trust lands;
- (2) poses a substantial threat of personal injury or death; and
- (3) 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) A crime occurs whether or not any person is prosecuted or convicted but the conviction of a person whose acts give rise to the claim is conclusive evidence that a crime was committed unless an application for rehearing, appeal, or petition for certiorari is pending or a new trial or rehearing has been ordered.

(c) "Crime" does not include an act involving the operation of a motor vehicle, aircraft, or watercraft that results in injury or death, except that a crime includes any of the following:

- (1) injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or watercraft;
- (2) injury or death caused by a driver in violation of section 169.09, subdivision 1; 169A.20; or 609.21; and
- (3) injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which the driver knowingly and willingly participated.

(d) Notwithstanding paragraph (a), "crime" includes an act of international terrorism as defined in United States Code, title 18, section 2331, committed outside of the United States against a resident of this state.

Subd. 7. **Dependent.** "Dependent" means any person who was dependent upon a deceased victim for support at the time of the crime.

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.

Subd. 9. **Injury.** "Injury" means actual bodily harm including pregnancy and emotional trauma.

Subd. 10. **Victim.** "Victim" means a person who suffers personal injury or death as a direct result of:

(1) a crime;

(2) the good faith effort of any person to prevent a crime; or

(3) the good faith effort of any person to apprehend a person suspected of engaging in a crime.

**History:** 1974 c 463 s 2; 1975 c 359 s 23; 1983 c 262 art 1 s 6; 1Sp1985 c 4 s 10; 1986 c 444; 1986 c 463 s 12; 1987 c 244 s 3; 1987 c 333 s 22; 1988 c 638 s 5; 1989 c 264 s 3; 1990 c 371 s 1; 1990 c 579 s 10; 1992 c 571 art 5 s 8; 1993 c 326 art 6 s 12-14; 1994 c 636 art 7 s 7; 1995 c 226 art 7 s 25; 1997 c 239 art 7 s 28,29; 1999 c 136 s 2; 2000 c 478 art 2 s 7

**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:** 1974 c 463 s 3; 1975 c 246 s 1; 1976 c 2 s 119; 1976 c 193 s 1; 1983 c 262 art 1 s 6; 1Sp1985 c 4 s 11; 1986 c 463 s 13-15; 1987 c 244 s 4; 1989 c 209 art 1 s 46; 1989 c 264 s 4; 1990 c 579 s 11; 1994 c 636 art 7 s 8; 1995 c 226 art 7 s 12; 1997 c 239 art 7 s 30; 1999 c 136 s 3

#### 611A.54 AMOUNT OF REPARATIONS.

Reparations shall equal economic loss except that:

(1) reparations shall be reduced to the extent that economic loss is recouped from a collateral source or collateral sources. Where compensation is readily available to a claimant from a collateral source, the claimant must take reasonable steps to recoup from the collateral source before claiming reparations;

(2) reparations shall be denied or reduced to the extent, if any, that the board deems reasonable because of the contributory misconduct of the claimant or of a victim through whom the claimant claims; and

(3) reparations paid to all claimants suffering economic loss as the result of the injury or death of any one victim shall not exceed \$50,000.

No employer may deny an employee an award of benefits based on the employee's eligibility or potential eligibility for reparations.

**History:** 1974 c 463 s 4; 1977 c 356 s 1; 1983 c 262 art 1 s 6; 1Sp1985 c 4 s 12; 1986 c 444; 1986 c 463 s 16; 1989 c 264 s 5

#### 611A.55 CRIME VICTIMS REPARATIONS BOARD.

Subdivision 1. There is created in the department of public safety, for budgetary and administrative purposes, the crime victims reparations board, which shall consist of five members appointed by the commissioner of public safety and selected from among the membership of the crime victim and witness advisory council created in section 611A.71. One of the members shall be designated as chair by the commissioner of public safety and serve as such at the commissioner's pleasure. At least one member shall be a medical or osteopathic physician licensed to practice in this state, and at least one member shall be a victim, as defined in section 611A.01.

Subd. 2. The membership terms, compensation, removal of members, and filling of vacancies on the board shall be as provided in section 15.0575. Members of the board who are also members of the crime victim and witness advisory council created in section 611A.71 shall not be compensated while performing duties for the advisory council.

Subd. 3. Members of the board shall serve part time.

**History:** 1974 c 463 s 5; 1976 c 134 s 64,65; 1983 c 262 art 1 s 6; 1983 c 305 s 23; 1984 c 531 s 7; 1Sp1985 c 4 s 13,14; 1986 c 444

#### 611A.56 POWERS AND DUTIES OF THE BOARD.

Subdivision 1. **Duties.** In addition to carrying out any duties specified elsewhere in sections 611A.51 to 611A.68 or in other law, the board shall:

(a) provide all claimants with an opportunity for hearing pursuant to chapter 14;

(b) adopt rules to implement and administer sections 611A.51 to 611A.68, including rules governing the method of practice and procedure before the board, prescribing the manner in which applications for reparations shall be made, and providing for discovery proceedings;

(c) publicize widely the availability of reparations and the method of making claims; and

(d) prepare and transmit annually to the governor and the commissioner of public safety a report of its activities including the number of claims awarded, a brief description of the facts in each case, the amount of reparation awarded, and a statistical summary of claims and awards made and denied.

Subd. 2. **Powers.** In addition to exercising any powers specified elsewhere in sections 611A.51 to 611A.68 or other law, the board upon its own motion or the motion of a claimant or the attorney general may:

(a) issue subpoenas for the appearance of witnesses and the production of books, records, and other documents;

(b) administer oaths and affirmations and cause to be taken affidavits and depositions within and without this state;

(c) take notice of judicially cognizable facts and general, technical, and scientific facts within their specialized knowledge;

(d) order a mental or physical examination of a victim or an autopsy of a deceased victim provided that notice is given to the person to be examined and that the claimant and the attorney general receive copies of any resulting report;

(e) suspend or postpone the proceedings on a claim if a criminal prosecution arising out of the incident which is the basis of the claim has been commenced or is imminent;

(f) request from prosecuting attorneys and law enforcement officers investigations and data to enable the board to perform its duties under sections 611A.51 to 611A.68;

(g) grant emergency reparations pending the final determination of a claim if it is one with respect to which an award will probably be made and undue hardship will result to the claimant if immediate payment is not made; and

(h) reconsider any decision granting or denying reparations or determining their amount.

**History:** 1974 c 463 s 6; 1982 c 424 s 130; 1983 c 262 art 1 s 6; 1Sp1985 c 4 s 15; 1986 c 463 s 17; 1988 c 638 s 6; 1997 c 7 art 2 s 64

#### 611A.57 DETERMINATION OF CLAIMS.

Subdivision 1. [Repealed, 1993 c 326 art 6 s 26]

Subd. 2. **Investigation.** The board staff shall examine the papers filed in support of the claim and cause an investigation to be conducted into the validity of a claim to the extent that an investigation is necessary.

Subd. 3. **Claim decision.** The board executive director may decide the claim in favor of a claimant in the amount claimed on the basis of the papers filed in support of it and the report of the investigation of such claim. If unable to decide the claim upon the basis of the papers and any report of investigation, the board executive director shall discuss the matter with other members of the board present at a board meeting. After discussion the board shall vote on whether to grant or deny the claim or whether further investigation is necessary. A decision granting or denying the claim shall then be issued by the executive director.

Subd. 4. **Written decision.** The written decision granting or denying a claim shall be filed with the board, and a copy shall be provided to the claimant.

Subd. 5. **Reconsideration.** The claimant may, within 30 days after receiving the decision of the board, apply for reconsideration before the entire board. Upon request for reconsideration, the board shall reexamine all information filed by the claimant, including any new information the claimant provides, and all information obtained by investigation. The board may also conduct additional examination into the validity of the claim. Upon reconsideration, the board may affirm, modify, or reverse the prior ruling. A claimant denied reparations upon reconsideration is entitled to a contested case hearing within the meaning of chapter 14.

Subd. 6. **Data.** Claims for reparations and supporting documents and reports are investigative data and subject to the provisions of section 13.39 until the claim is paid, denied, withdrawn, or abandoned. Following the payment, denial, withdrawal, or abandonment of a claim, the claim and supporting documents and reports are private data on individuals as defined in section 13.02, subdivision 12; provided that the board may forward any reparations claim forms, supporting documents, and reports to local law enforcement authorities for purposes of implementing section 611A.67.

**History:** 1974 c 463 s 7; 1983 c 262 art 1 s 6; 1986 c 444; 1986 c 463 s 18; 1987 c 244 s 5; 1990 c 579 s 12; 1993 c 326 art 6 s 15-17

#### **611A.58 ATTORNEYS FEES; LIMITATION FOR REPRESENTATION BEFORE BOARD.**

The board may limit the fee charged by any attorney for representing a claimant before the board.

**History:** 1975 c 246 s 2; 1983 c 262 art 1 s 6

**611A.59** [Repealed, 1987 c 244 s 8]

#### **611A.60 REPARATIONS; HOW PAID.**

Reparations may be awarded in a lump sum or in installments in the discretion of the board. The amount of any emergency award shall be deducted from the final award, if a lump sum, or prorated over a period of time if the final award is made in installments. Reparations are exempt from execution or attachment except by persons who have supplied services, products or accommodations to the victim as a result of the injury or death which is the basis of the claim. The board, in its discretion may order that all or part of the reparations awarded be paid directly to these suppliers.

**History:** 1974 c 463 s 9; 1983 c 262 art 1 s 6

#### **611A.61 SUBROGATION.**

Subdivision 1. **Subrogation rights of state.** The state shall be subrogated, to the extent of reparations awarded, to all the claimant's rights to recover benefits or advantages for economic loss from a source which is or, if readily available to the victim or claimant would be, a collateral source. Nothing in this section shall limit the claimant's right to bring a cause of action to recover for other damages.

Subd. 2. **Duty of claimant to assist.** A claimant who receives reparations must agree to assist the state in pursuing any subrogation rights arising out of the claim. The board may require a claimant to agree to represent the state's subrogation interests if the claimant brings a cause of action for damages arising out of the crime or occurrence for which the board has awarded reparations. An attorney who represents the state's subrogation interests pursuant to the client's agreement with the board is entitled to reasonable attorney's fees not to exceed one-third of the amount recovered on behalf of the state.

Subd. 3. [Repealed, 1995 c 226 art 7 s 26]

**History:** 1974 c 463 s 10; 1979 c 173 s 1; 1983 c 262 art 1 s 6; 1986 c 463 s 19; 1987 c 358 s 127; 1989 c 335 art 4 s 101

#### **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 under 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:** 1995 c 226 art 7 s 13; 1999 c 136 s 4

**611A.62 MEDICAL PRIVILEGE.**

There is no privilege as to communication or records relevant to an issue of the physical, mental, or emotional condition of the claimant or victim in a proceeding under sections 611A.51 to 611A.56 in which that condition is an issue. Nothing contained in this section shall be interpreted to abridge the attorney-client privilege.

**History:** 1974 c 463 s 11; 1983 c 262 art 1 s 6

**611A.63 ENFORCEMENT OF BOARD'S ORDERS.**

If a person refuses to comply with an order of the board or asserts a privilege to withhold or suppress evidence relevant to a claim, the board may make any just order including denial of the claim, but may not find the person in contempt. If necessary to carry out any of its powers and duties, the board may petition the district court for an appropriate order, but the court may not find a person in contempt for refusal to submit to a mental or physical examination.

**History:** 1974 c 463 s 12; 1983 c 262 art 1 s 6

**611A.64 DEPARTMENT OF CORRECTIONS; RESTITUTION.**

The department of corrections may, as a means of assisting in the rehabilitation of persons committed to their care, establish programs and procedures whereby such persons may contribute toward restitution of those persons injured as a consequence of their criminal acts.

**History:** 1974 c 463 s 13; 1983 c 262 art 1 s 6

**611A.65 USE OF RECORD OF CLAIM; EVIDENCE.**

Neither a record of the proceedings on a claim, a decision of the board, nor the fact that an award has been made or denied shall be admissible as evidence in any criminal or civil action against the alleged offender, except an action by the state on its subrogation claim.

**History:** 1974 c 463 s 14; 1979 c 173 s 2; 1983 c 262 art 1 s 6

**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:** 1974 c 463 s 15; 1983 c 262 art 1 s 6; 1987 c 244 s 6; 1993 c 326 art 6 s 18; 1995 c 266 art 7 s 25; 1999 c 139 art 4 s 2

**611A.67 FRAUDULENT CLAIMS; PENALTY.**

Any person who knowingly makes a false claim under sections 611A.51 to 611A.68 is guilty of a gross misdemeanor.

**History:** 1974 c 463 s 16; 1983 c 262 art 1 s 6; 1988 c 638 s 7

**611A.675 FUND FOR EMERGENCY NEEDS OF CRIME VICTIMS.**

Subdivision 1. **Grants authorized.** The crime victim and witness advisory council shall make grants to prosecutors and victim assistance programs for the purpose of



providing emergency assistance to victims. As used in this section, "emergency assistance" includes but is not limited to:

- (1) replacement of necessary property that was lost, damaged, or stolen as a result of the crime;
- (2) purchase and installation of necessary home security devices;
- (3) transportation to locations related to the victim's needs as a victim, such as medical facilities and facilities of the criminal justice system;
- (4) cleanup of the crime scene; and
- (5) reimbursement for reasonable travel and living expenses the victim incurred to attend court proceedings that were held at a location other than the place where the crime occurred due to a change of venue.

**Subd. 2. Application for grants.** A city or county attorney's office or victim assistance program may apply to the council for a grant for any of the purposes described in subdivision 1 or for any other emergency assistance purpose approved by the council. The application must be on forms and pursuant to procedures developed by the council. The application must describe the type or types of intended emergency assistance, estimate the amount of money required, and include any other information deemed necessary by the council.

**Subd. 3. Reporting by local agencies required.** A city or county attorney's office or victim assistance program that receives a grant under this section shall file an annual report with the council itemizing the expenditures made during the preceding year, the purpose of those expenditures, and the ultimate disposition, if any, of each assisted victim's criminal case.

**Subd. 4. Report to legislature.** On or before February 1, 1999, the council shall report to the chairs of the senate crime prevention and house of representatives judiciary committees on the implementation, use, and administration of the grant program created under this section.

**History:** 1995 c 226 art 7 s 14; 1997 c 239 art 7 s 31

## 611A.68 LIMITING COMMERCIAL EXPLOITATION OF CRIMES; PAYMENT OF VICTIMS.

Subdivision 1. **Definition.** For purposes of this section, the following terms have the meanings given them in this subdivision.

(a) "Contract" means an agreement regarding, in whole or in part, (1) the reenactment of an offender's crime by way of a movie, book, newspaper or magazine article, radio or television presentation, or live or recorded entertainment of any kind, or (2) the expression of the offender's thoughts, feelings, opinions, or emotions about the crime.

(b) "Crime" means an offense which is a felony under the laws of Minnesota or that would have been a felony if committed in Minnesota, and includes an offense committed or attempted on an Indian reservation or other trust land.

(c) "Offender" means a person convicted of a crime or found not guilty of a crime by reason of insanity.

(d) "Person" includes persons, corporations, partnerships, and other legal entities.

Subd. 2. [Repealed, 1988 c 638 s 17]

**Subd. 2a. Notice and payment of proceeds to board required.** A person that enters into a contract with an offender convicted in this state, and a person that enters into a contract in this state with an offender convicted in this state or elsewhere within the United States, must comply with this section if the person enters into the contract during the ten years after the offender is convicted of a crime or found not guilty by reason of insanity. If an offender is imprisoned or committed to an institution following the conviction or finding of not guilty by reason of insanity, the ten-year period begins on the date of the offender's release. A person subject to this section must notify the crime victims reparations board of the existence of the contract immediately upon its

formation, and pay over to the board money owed to the offender or the offender's representatives by virtue of the contract according to the following proportions:

(a) if the crime occurred in this state, the person shall pay to the board 100 percent of the money owed under the contract;

(b) if the crime occurred in another jurisdiction having a law applicable to the contract which is substantially similar to this section, this section does not apply, and the person must not pay to the board any of the money owed under the contract; and

(c) in all other cases, the person shall pay to the board that percentage of money owed under the contract which can fairly be attributed to commerce in this state with respect to the subject matter of the contract.

**Subd. 3. Victim notification.** When the board receives a payment pursuant to this section, it shall attempt to notify any known victims of the crime and shall publish a notice of that fact in a newspaper having general circulation in the county where the crime was committed. The expenses of notification shall be paid from the amount received for that case.

**Subd. 4. Deductions.** When the board has made reparations payments to or on behalf of a victim of the offender's crime pursuant to sections 611A.51 to 611A.68, it shall deduct the amount of the reparations award from any payment received under this section by virtue of the offender's contract unless the board has already been reimbursed for the reparations award from another collateral source.

**Subd. 4a. Offender's minor dependent claims.** Immediately after money is deposited with the board under this section, the board may allocate up to ten percent of any money remaining after a deduction is made under subdivision 4 for the benefit of the offender's dependent minor children. The board shall then retain the funds allocated until a claim is made by the dependent minor children or their representative. Upon receiving a claim, the board shall disburse the allocated funds to the dependent minor children if it is shown by clear and convincing evidence that the funds will not be used in a way that benefits the offender.

**Subd. 4b. Claims by victims of offender's crime.** A victim of a crime committed by the offender and the estate of a deceased victim of a crime committed by the offender may submit the following claims for reparations and damages to the board to be paid from money received by virtue of the offender's contract:

(1) claims for reparations to which the victim is entitled under sections 611A.51 to 611A.68 and for which the victim has not yet received an award from the board;

(2) claims for reparations to which the victim would have been entitled under sections 611A.51 to 611A.68, but for the \$50,000 maximum limit contained in section 611A.54, clause (3); and

(3) claims for other uncompensated damages suffered by the victim as a result of the offender's crime including, but not limited to, damages for pain and suffering.

The victim must file the claim within five years of the date on which the board received payment under this section. The board shall determine the victim's claim in accordance with the procedures contained in sections 611A.57 to 611A.63. An award made by the board under this subdivision must be paid from the money received by virtue of the offender's contract that remains after a deduction or allocation, if any, has been made under subdivision 4 or 4a.

**Subd. 4c. Claims by other crime victims.** The board may use money received by virtue of an offender's contract for the purpose of paying reparations awarded to victims of other crimes pursuant to sections 611A.51 to 611A.68 under the following circumstances:

(1) money remain after deductions and allocations have been made under subdivisions 4 and 4a, and claims have been paid under subdivision 4b; or

(2) no claim is filed under subdivision 4b within five years of the date on which the board received payment under this section.

None of these moneys may be used for purposes other than the payment of reparations.

Subd. 5. [Repealed, 1988 c 638 s 17]

Subd. 6. **Payments for costs of defense.** Notwithstanding any other provision of this section, the board shall make payments to an offender from the account of amounts received with reference to that offender upon the order of a court of competent jurisdiction after a showing by that offender that the money shall be used for the reasonable costs of defense in the appeal of a criminal conviction or in proceedings pursuant to this section.

Subd. 7. **Deposit of moneys in state treasury.** All moneys received by the board pursuant to this section shall be deposited in the state treasury, credited to a special account, and are appropriated to the board for the purposes of this section. Money in the special account may be invested pursuant to section 11A.25. When so invested, any interest or profit shall accrue to, and any loss be borne by, the special account. The board shall allocate money in the special account to each case pursuant to this section.

Subd. 8. **Penalty.** (a) A person who willfully fails to notify the board of the existence of a contract as required by this section is guilty of a gross misdemeanor.

(b) Except as otherwise provided in paragraph (a), any person or offender who takes any action, whether by way of execution of a power of attorney, creation of corporate or trust entities or otherwise, to defeat the purpose of this section is guilty of a misdemeanor.

**History:** 1979 c 234 s 1; 1980 c 607 art 14 s 46; 1983 c 262 art 1 s 6; 1986 c 444; 1988 c 638 s 8-15; 1995 c 226 art 7 s 25

### MINNESOTA CRIME VICTIM AND WITNESS ADVISORY COUNCIL ACT

#### 611A.70 CITATION.

This section and section 611A.71 may be cited as the "Minnesota Crime Victim and Witness Advisory Council Act."

**History:** 1Sp1985 c 4 s 16

#### 611A.71 COUNCIL; ESTABLISHMENT.

Subdivision 1. **Creation.** The Minnesota crime victim and witness advisory council is established and shall consist of 16 members.

Subd. 2. **Membership.** (a) The crime victim and witness advisory council shall consist of the following members, appointed by the commissioner of public safety after consulting with the commissioner of corrections:

(1) one district court judge appointed upon recommendation of the chief justice of the supreme court;

(2) one county attorney appointed upon recommendation of the Minnesota county attorneys association;

(3) one public defender appointed upon recommendation of the state public defender;

(4) one peace officer;

(5) one medical or osteopathic physician licensed to practice in this state;

(6) five members who are crime victims or crime victim assistance representatives;

(7) three public members; and

(8) one member appointed on recommendation of the Minnesota general crime victim coalition.

The appointments should take into account sex, race, and geographic distribution. No more than seven of the members appointed under this paragraph may be of one

gender. One of the nonlegislative members must be designated by the commissioner of public safety as chair of the council.

(b) Two members of the council shall be members of the legislature who have demonstrated expertise and interest in crime victims issues, one senator appointed under rules of the senate and one member of the house of representatives appointed under rules of the house of representatives.

Subd. 3. **Terms of office.** Section 15.059 governs the terms of office, filling of vacancies, and removal of members of the crime victim and witness advisory council. Members are eligible for reappointment and appointment may be made to fill an unexpired term. The members of the council shall elect any additional officers necessary for the efficient discharge of their duties.

Subd. 4. **Compensation.** Each member of the council shall serve without compensation. However, members of the council shall receive expenses in the same manner and amount as provided in the commissioner's plan under section 43A.18, subdivision 2; provided that payments for expenses incurred must be paid from the existing appropriation for the administrative portion of the operating budget for the crime victims reparations activity.

Subd. 5. **Duties.** The council shall:

(1) review on a regular basis the treatment of victims by the criminal justice system and the need and availability of services to victims;

(2) advise the agency designated by the governor to apply for victim assistance program grants under chapter 14 of Public Law Number 98-473; in the coordination and allocation of federal funds for crime victims assistance programs;

(3) advocate necessary changes and monitor victim-related legislation;

(4) provide information, training, and technical assistance to state and local agencies and groups involved in victim and witness assistance;

(5) serve as a clearinghouse for information concerning victim and witness programs;

(6) develop guidelines for the implementation of victim and witness assistance programs and aid in the creation and development of programs;

(7) coordinate the development and implementation of policies and guidelines for the treatment of victims and witnesses, and the delivery of services to them;

(8) develop ongoing public awareness efforts and programs to assist victims; and

(9) administer the grant program described in section 611A.675.

Subd. 6. **Executive director.** The commissioner of public safety shall, with the advice of the advisory council, select and employ an executive director for the council who shall serve in the unclassified service at the pleasure of the commissioner and shall aid the council in the performance of its duties under subdivision 5 and supervise the administration of the Crime Victims Reparations Act.

Subd. 7. **Expiration.** The council expires on June 30, 2001.

**History:** *1Sp1985 c 4 s 17; 1986 c 463 s 20; 1988 c 629 s 61; 1988 c 684 art 1 s 21,22; 1990 c 583 s 7; 1991 c 170 s 6; 1993 c 326 art 6 s 19-22; 1995 c 226 art 7 s 15; 1997 c 239 art 7 s 32,33*

## CRIME VICTIM OMBUDSMAN ACT

### 611A.72 CITATION.

Sections 611A.72 to 611A.74 may be cited as the "Crime Victim Oversight Act."

**History:** *1Sp1985 c 4 s 18; 2002 c 220 art 7 s 19*

### 611A.73 DEFINITIONS.

Subdivision 1. **Definitions.** The definitions in this section apply to this section and section 611A.74.

Subd. 2. **Appropriate authority.** "Appropriate authority" includes anyone who is the subject of a complaint under sections 611A.72 to 611A.74 to the commissioner or anyone within the agency who is in a supervisory position with regard to one who is the subject of a complaint under sections 611A.72 to 611A.74.

Subd. 3. **Elements of the criminal justice system.** "Elements of the criminal justice system" refers to prosecuting attorneys and members of their staff; peace officers; probation and corrections officers; city, state, and county officials involved in the criminal justice system; and does not include the judiciary.

Subd. 4. **Victim.** "Victim" refers to anyone or the next of kin of anyone who has been or purports to have been subjected to a criminal act, whether a felony, a gross misdemeanor, or misdemeanor.

Subd. 5. **Victim assistance program.** "Victim assistance program" refers to any entity which provides or claims to provide services and assistance to victims on a regular, ongoing basis.

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of public safety.

**History:** 1Sp1985 c 4 s 19; 1995 c 226 art 7 s 16; 2002 c 220 art 7 s 20,21

#### 611A.74 CRIME VICTIM OMBUDSMAN; CREATION.

Subdivision 1. **Authority under this act.** The commissioner shall have the authority under sections 611A.72 to 611A.74 to investigate decisions, acts, and other matters of the criminal justice system so as to promote the highest attainable standards of competence, efficiency, and justice for crime victims in the criminal justice system.

Subd. 1a. [Repealed, 2002 c 220 art 7 s 33]

Subd. 2. **Duties.** The commissioner may investigate complaints concerning possible violation of the rights of crime victims or witnesses provided under this chapter, the delivery of victim services by victim assistance programs, the administration of the crime victims reparations act, and other complaints of mistreatment by elements of the criminal justice system or victim assistance programs. The commissioner shall act as a liaison, when the commissioner deems necessary, between agencies, either in the criminal justice system or in victim assistance programs, and victims and witnesses. The commissioner may be concerned with activities that strengthen procedures and practices which lessen the risk that objectionable administrative acts will occur. The commissioner must answer questions concerning the criminal justice system and victim services put to the commissioner by victims and witnesses in accordance with the commissioner's knowledge of the facts or law, unless the information is otherwise restricted. The commissioner shall establish a procedure for referral to the crime victim crisis centers, the crime victims reparations board, and other victim assistance programs when services are requested by crime victims or deemed necessary by the commissioner.

The commissioner's files are confidential data as defined in section 13.02, subdivision 3, during the course of an investigation or while the files are active. Upon completion of the investigation or when the files are placed on inactive status, they are private data on individuals as defined in section 13.02, subdivision 12.

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

(a) The commissioner 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 commissioner may request and shall be given access to information and assistance the commissioner considers necessary for the discharge of responsibilities. The commissioner may inspect, examine, and be provided copies of records and documents of all elements of the criminal justice system and victim assistance programs. The commissioner 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 commissioner retains its data

classification under chapter 13 while in the commissioner's possession. Juvenile records obtained under this subdivision may not be released to any person.

(c) The commissioner 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 commissioner conclusions, recommendations, and proposals.

(d) After completing investigation of a complaint, the commissioner 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 commissioner'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 commissioner shall consult with that agency or person.

Subd. 4. **No compelled testimony.** Neither the commissioner nor any member of the commissioner's staff may be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to matters involving the exercise of official duties under sections 611A.72 to 611A.74 except as may be necessary to enforce the provisions of this section.

Subd. 5. **Recommendations.** (a) On finding a complaint valid after duly considering the complaint and whatever material the commissioner deems pertinent, the commissioner may recommend action to the appropriate authority.

(b) If the commissioner makes a recommendation to an appropriate authority for action, the authority shall, within a reasonable time period, but not more than 30 days, inform the commissioner about the action taken or the reasons for not complying with the recommendation.

(c) The commissioner may publish conclusions and suggestions by transmitting them to the governor, the legislature or any of its committees, the press, and others who may be concerned. When publishing an opinion adverse to an administrative agency, the commissioner shall include any statement the administrative agency may have made to the commissioner by way of explaining its past difficulties or its present rejection of the commissioner's proposals.

Subd. 6. **Reports.** In addition to whatever reports the commissioner may make from time to time, the commissioner shall biennially report to the legislature and to the governor concerning the exercise of the commissioner's functions under sections 611A.72 to 611A.74 during the preceding biennium. The biennial report is due on or before the beginning of the legislative session following the end of the biennium.

**History:** *1Sp1985 c 4 s 20; 1986 c 444; 1987 c 244 s 7; 1988 c 638 s 16; 1990 c 583 s 8,9; 1995 c 226 art 7 s 17; 1997 c 239 art 7 s 34-36; 1998 c 254 art 1 s 105; 1999 c 139 art 4 s 2; 1Sp2001 c 8 art 5 s 14; 2002 c 220 art 7 s 22-27*

**611A.75** [Repealed, 1997 c 7 art 2 s 67]

## VICTIM SERVICES TELEPHONE LINE

### 611A.76 CRIME VICTIM SERVICES TELEPHONE LINE.

The commissioner of public safety shall operate at least one statewide toll-free 24-hour telephone line for the purpose of providing crime victims with referrals for victim services and resources.

**History:** *1992 c 571 art 5 s 9*

### MEDIATION PROGRAMS

#### 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:** 1992 c 571 art 5 s 10; 1994 c 576 s 54; 1999 c 216 art 6 s 18

### RESTORATIVE JUSTICE PROGRAMS

#### 611A.775 RESTORATIVE JUSTICE PROGRAMS.

A community-based organization, in collaboration with a local governmental unit, may establish a restorative justice program. A restorative justice program is a program that provides forums where certain individuals charged with or petitioned for having committed an offense meet with the victim, if appropriate; the victim's family members or other supportive persons, if appropriate; the offender's family members or other supportive persons, if appropriate; a law enforcement official or prosecutor when appropriate; other criminal justice system professionals when appropriate; and members of the community, in order to:

(1) discuss the impact of the offense on the victim and the community;

(2) provide support to the victim and methods for reintegrating the victim into community life;

(3) assign an appropriate sanction to the offender; and

(4) provide methods for reintegrating the offender into community life.

**History:** 1998 c 367 art 2 s 25

### CRIME VICTIM SERVICES ROUNDTABLE

#### 611A.78 CRIME VICTIM SERVICES ROUNDTABLE.

Subdivision 1. **Membership.** A crime victim services roundtable is created and shall be convened by the commissioner of administration or a designee. The roundtable

membership shall include representatives from the following: the departments of health; human services; children, families, and learning; corrections; and public safety; the supreme court; the Minnesota planning agency; the office of the attorney general; the office of crime victim ombudsman; the county attorneys association; and the office of dispute resolution. The roundtable membership shall also include one person representing the four councils designated in sections 3.922, 3.9223, 3.9225, and 3.9226.

Subd. 2. **Duties.** The crime victim services roundtable shall meet at least four times each year to discuss issues concerning victim services, including, but not limited to, methods for improving the delivery of and securing increased funding for victim services. The roundtable shall present to the legislature any initiatives, including those for increasing efficiency in the administration of services, which require legislative action.

**History:** 1996 c 408 art 7 s 11

### CIVIL DAMAGES FOR BIAS OFFENSES

#### 611A.79 CIVIL DAMAGES FOR BIAS OFFENSES.

Subdivision 1. **Definition.** For purposes of this section, "bias offense" means conduct that would constitute a crime and was committed because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363.01, age, or national origin.

Subd. 2. **Cause of action; damages and fees injunction.** A person who is damaged by a bias offense has a civil cause of action against the person who committed the offense. The plaintiff is entitled to recover the greater of:

(i) \$500; or

(ii) actual general and special damages, including damages for emotional distress.

A plaintiff also may obtain punitive damages as provided in sections 549.191 and 549.20 or an injunction or other appropriate relief.

Subd. 3. **Relation to criminal proceeding; burden of proof.** A person may bring an action under this section regardless of the existence or outcome of criminal proceedings involving the bias offense that is the basis for the action. The burden of proof in an action under this section is preponderance of the evidence.

Subd. 4. **Parental liability.** Section 540.18 applies to actions under this section, except that:

(1) the parent or guardian is liable for all types of damages awarded under this section in an amount not exceeding \$5,000; and

(2) the parent or guardian is not liable if the parent or guardian made reasonable efforts to exercise control over the minor's behavior.

Subd. 5. **Trial; limitation period.** (a) The right to trial by jury is preserved in an action brought under this section.

(b) An action under this section must be commenced not later than six years after the cause of action arises.

Subd. 6. **Other rights preserved.** The remedies under this section do not affect any rights or remedies of the plaintiff under other law.

**History:** 1996 c 468 s 1

### ACTIONS INVOLVING COERCION INTO PROSTITUTION

#### 611A.80 DEFINITIONS.

Subdivision 1. **General.** The definitions in this section apply to sections 611A.80 to 611A.88.

Subd. 2. **Coerce.** "Coerce" means to use or threaten to use any form of domination, restraint, or control for the purpose of causing an individual to engage in or



remain in prostitution or to relinquish earnings derived from prostitution. Coercion exists if the totality of the circumstances establish the existence of domination, restraint, or control that would have the reasonably foreseeable effect of causing an individual to engage in or remain in prostitution or to relinquish earnings from prostitution. Evidence of coercion may include, but is not limited to:

- (1) physical force or actual or implied threats of physical force;
- (2) physical or mental torture;
- (3) implicitly or explicitly leading an individual to believe that the individual will be protected from violence or arrest;
- (4) kidnapping;
- (5) defining the terms of an individual's employment or working conditions in a manner that can foreseeably lead to the individual's use in prostitution;
- (6) blackmail;
- (7) extortion or claims of indebtedness;
- (8) threat of legal complaint or report of delinquency;
- (9) threat to interfere with parental rights or responsibilities, whether by judicial or administrative action or otherwise;
- (10) promise of legal benefit, such as posting bail, procuring an attorney, protecting from arrest, or promising unionization;
- (11) promise of financial rewards;
- (12) promise of marriage;
- (13) restraining speech or communication with others, such as exploiting a language difference, or interfering with the use of mail, telephone, or money;
- (14) isolating an individual from others;
- (15) exploiting a condition of developmental disability, cognitive limitation, affective disorder, or substance dependency;
- (16) taking advantage of lack of intervention by child protection;
- (17) exploiting victimization by previous sexual abuse or battering;
- (18) exploiting pornographic performance;
- (19) interfering with opportunities for education or skills training;
- (20) destroying property;
- (21) restraining movement;
- (22) exploiting HIV status, particularly where the defendant's previous coercion led to the HIV exposure; or
- (23) exploiting needs for food, shelter, safety, affection, or intimate or marital relationships.

Subd. 3. **Promotes the prostitution of an individual.** "Promotes the prostitution of an individual" has the meaning given in section 609.321, subdivision 7.

Subd. 4. **Prostitution.** "Prostitution" has the meaning given in section 609.321, subdivision 9.

**History:** 1994 c 624 s 1

#### 611A.81 CAUSE OF ACTION FOR COERCION FOR USE IN PROSTITUTION.

Subdivision 1. **Cause of action created.** (a) An individual has a cause of action against a person who:

- (1) coerced the individual into prostitution;
- (2) coerced the individual to remain in prostitution;
- (3) used coercion to collect or receive any of the individual's earnings derived from prostitution; or
- (4) hired, offered to hire, or agreed to hire the individual to engage in prostitution, knowing or having reason to believe that the individual was coerced into or coerced to remain in prostitution by another person.

For purposes of clauses (1) and (2), money payment by a patron, as defined in section 609.321, subdivision 4, is not coercion under section 611A.80, subdivision 2, clause (5) or (11), or exploiting needs for food or shelter under section 611A.80, subdivision 2, clause (23).

Clause (3) does not apply to minor children who are dependent on the individual and who may have benefited from or been supported by the individual's earnings derived from prostitution.

(b) An individual has a cause of action against a person who did the following while the individual was a minor:

- (1) solicited or induced the individual to practice prostitution;
- (2) promoted the prostitution of the individual;
- (3) collected or received the individual's earnings derived from prostitution; or
- (4) hired, offered to hire, or agreed to hire the individual to engage in prostitution.

Mistake as to age is not a defense to an action under this paragraph.

**Subd. 2. Damages.** A person against whom a cause of action may be maintained under subdivision 1 is liable for the following damages that resulted from the plaintiff's being used in prostitution or to which the plaintiff's use in prostitution proximately contributed:

(1) economic loss, including damage, destruction, or loss of use of personal property; loss of past or future income or earning capacity; and income, profits, or money owed to the plaintiff from contracts with the person; and

(2) damages for death as may be allowed under section 573.02, personal injury, disease, and mental and emotional harm, including medical, rehabilitation, and burial expenses; and pain and suffering, including physical impairment.

**History:** 1994 c 624 s 2

#### 611A.82 ACTS NOT DEFENSES.

None of the following shall alone or jointly be a sufficient defense to an action under section 611A.81:

- (1) the plaintiff consented to engage in acts of prostitution;
- (2) the plaintiff was paid or otherwise compensated for acts of prostitution;
- (3) the plaintiff engaged in acts of prostitution prior to any involvement with the defendant;
- (4) the plaintiff apparently initiated involvement with the defendant;
- (5) the plaintiff made no attempt to escape, flee, or otherwise terminate contact with the defendant;
- (6) the defendant had not engaged in prior acts of prostitution with the plaintiff;
- (7) as a condition of employment, the defendant required the plaintiff to agree not to engage in prostitution; or
- (8) the defendant's place of business was posted with signs prohibiting prostitution or prostitution-related activities.

**History:** 1994 c 624 s 3

#### 611A.83 EVIDENCE.

**Subdivision 1. Use in other proceedings.** In the course of litigation under section 611A.81, any transaction about which a plaintiff testifies or produces evidence does not subject the plaintiff to criminal prosecution or any penalty or forfeiture. Any testimony or evidence, documentary or otherwise, or information directly or indirectly derived from that testimony or evidence that is given or produced by a plaintiff or a witness for a plaintiff may not be used against that person in any other investigation or proceeding, other than a criminal investigation or proceeding for perjury committed while giving the testimony or producing the evidence.

Subd. 2. **Convictions.** Evidence of convictions for prostitution or prostitution-related offenses is inadmissible in a proceeding brought under section 611A.81 for purposes of attacking the plaintiff's credibility. If the court admits evidence of prior convictions for purposes permitted under Minnesota Rules of Evidence, rule 404(b) with respect to motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, the fact finder may consider the evidence solely for those purposes and shall disregard details offered to prove any fact that is not relevant.

**History:** 1994 c 624 s 4

#### **611A.84 STATUTE OF LIMITATIONS.**

An action for damages under section 611A.81 must be commenced not later than six years after the cause of action arises, except that the running of the limitation period is suspended during the time that coercion as defined in section 611A.80 continues, or as otherwise provided by section 541.13 or 541.15.

**History:** 1994 c 624 s 5

#### **611A.85 OTHER REMEDIES PRESERVED.**

Sections 611A.80 to 611A.88 do not affect the right of any person to bring an action or use any remedy available under other law, including common law, to recover damages arising out of the use of the individual in prostitution or the coercion incident to the individual being used in prostitution; nor do sections 611A.80 to 611A.88 limit or restrict the liability of any person under other law.

**History:** 1994 c 624 s 6

#### **611A.86 DOUBLE RECOVERY PROHIBITED.**

A person who recovers damages under sections 611A.80 to 611A.88 may not recover the same costs or damages under any other law. A person who recovers damages under any other law may not recover for the same costs or damages under sections 611A.80 to 611A.88.

**History:** 1994 c 624 s 7

#### **611A.87 AWARD OF COSTS.**

Upon motion of a prevailing party in an action under sections 611A.80 to 611A.88, the court may award costs, disbursements, and reasonable attorney fees and witness fees to the party.

**History:** 1994 c 624 s 8

#### **611A.88 NO AVOIDANCE OF LIABILITY.**

No person may avoid liability under sections 611A.80 to 611A.88 by means of any conveyance of any right, title, or interest in real property, or by any indemnification, hold harmless agreement, or similar agreement that purports to show consent of the plaintiff.

**History:** 1994 c 624 s 9

#### **611A.90 RELEASE OF VIDEOTAPES OF CHILD ABUSE VICTIMS.**

Subdivision 1. **Definition.** For purposes of this section, "physical abuse" and "sexual abuse" have the meanings given in section 626.556, subdivision 2, except that abuse is not limited to acts by a person responsible for the child's care or in a significant relationship with the child or position of authority.

Subd. 2. **Court order required.** (a) A custodian of a videotape of a child victim or alleged victim alleging, explaining, denying, or describing an act of physical or sexual abuse as part of an investigation or evaluation of the abuse may not release a copy of the videotape without a court order, notwithstanding that the subject has consented to the release of the videotape or that the release is authorized under law.

(b) The court order may govern the purposes for which the videotape may be used, reproduction, release to other persons, retention and return of copies, and other requirements reasonably necessary for protection of the privacy and best interests of the child.

Subd. 3. **Petition.** An individual subject of data, as defined in section 13.02, or a patient, as defined in section 144.335, who is seeking a copy of a videotape governed by this section may petition the district court in the county where the alleged abuse took place or where the custodian of the videotape resides for an order releasing a copy of the videotape under subdivision 2. Nothing in this section establishes a right to obtain access to a videotape by any other person nor limits a right of a person to obtain access if access is otherwise authorized by law or pursuant to discovery in a court proceeding.

**History:** 1995 c 259 art 4 s 6