

## CHAPTER 611A

## CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES

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**611A.01 DEFINITIONS.**

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

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

(b) "victim" means a natural person who incurs loss or harm as a result of a crime, including a good faith effort to prevent a crime, and for purposes of sections 611A.04 and 611A.045, also includes (i) a corporation that incurs loss or harm as a result of a crime, (ii) a government entity that incurs loss or harm as a result of a crime, and (iii) any other entity authorized to receive restitution under section 609.10 or 609.125. The term "victim" includes the family members, guardian, or custodian of a minor, incompetent, incapacitated, or deceased person. In a case where the prosecutor finds that the number of family members makes it impracticable to accord all of the family members the rights described in sections 611A.02 to 611A.0395, the prosecutor shall establish a reasonable procedure to give effect to those rights. The procedure may not limit the number of victim impact statements submitted to the court under section 611A.038. The term "victim" does not include the person charged with or alleged to have committed the crime; and

(c) "juvenile" has the same meaning as given to the term "child" in section 260B.007, subdivision 3.

**History:** 2005 c 136 art 8 s 22

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

**Subdivision 1. Victim or witness.** An employer must allow a victim or witness, who is subpoenaed or requested by the prosecutor to attend court for the purpose of giving testimony, reasonable time off from work to attend criminal proceedings related to the victim's case.

**Subd. 2. Victim's spouse or next of kin.** An employer must allow a victim of a heinous crime, as well as the victim's spouse or next of kin, reasonable time off from work to attend criminal proceedings related to the victim's case.

**Subd. 3. Prohibited acts.** An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment, because the employee took reasonable time off from work to attend a criminal proceeding pursuant to this section.

**Subd. 4. Verification; confidentiality.** An employee who is absent from the workplace shall give 48 hours' advance notice to the employer, unless impracticable or an emergency prevents the employee from doing so. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.

**Subd. 5. Penalty.** An employer who violates this section 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 employee discharged from employment in violation of this section, and to pay the employee back wages as appropriate.

Subd. 6. **Civil action.** In addition to any remedies otherwise provided by law, an employee injured by a violation of this section may bring a civil action for recovery for damages, together with costs and disbursements, including reasonable attorneys fees, and may receive such injunctive and other equitable relief, including reinstatement, as determined by the court.

Subd. 7. **Definition.** As used in this section, "heinous crime" means:

- (1) a violation or attempted violation of section 609.185 or 609.19;
- (2) a violation of section 609.195 or 609.221; or
- (3) a violation of section 609.342, 609.343, or 609.344, if the offense was committed with force or violence or if the complainant was a minor at the time of the offense.

**History:** 2005 c 136 art 8 s 23

### 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.

(c) The order shall include the name and contact information of the victim's choice of health care provider.

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. Unless the subject of the test is an inmate at a state correctional facility, 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. If the subject of the test is an inmate at a state correctional facility, test results shall be given by the Department of Corrections' medical director to the victim's health care provider who shall give the results to the victim or victim's parent or guardian. 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:** 2005 c 136 art 8 s 24

#### **611A.53 REPARATIONS AWARDS PROHIBITED.**

*[For text of subs 1 and 1a, see M.S.2004]*

**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, United States possession, country, or political subdivision of a country 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.

*[For text of subd 2, see M.S.2004]*

**History:** 2005 c 136 art 8 s 25