

Section 1. Minnesota Statutes 1986, section 256C.025, subdivision 4, is amended to read:

Subd. 4. Every totally or partially blind, physically handicapped, or deaf person who has a guide service dog, or who obtains a guide service dog, shall be entitled to full and equal access to all housing accommodations provided for in this section, and shall not be required to pay extra compensation for such guide service dog but shall be liable for any damage done to the premises by such guide service dog.

Sec. 2. Minnesota Statutes 1986, section 256C.03, is amended to read:

256C.03 BLIND OR DEAF PEDESTRIANS; CIVIL LIABILITY.

The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white or metallic in color, with or without a red tip, or using a guide service dog, or totally or partially deaf person with a guide service dog identified with a burnt orange collar or leash, shall bring such vehicle to a stop and give the right of way at any intersection of any street, avenue, alley or other public highway to such blind or deaf pedestrian.

Approved April 26, 1988

CHAPTER 638—H.F.No. 1754

An act relating to crime victims; providing that revenue recapture provisions apply to restitution ordered in a juvenile delinquency proceeding; requiring prosecutors to attempt to notify domestic assault victims of decisions not to prosecute; authorizing the crime victims reparations board to pay the costs of returning an abducted child home; authorizing the board to determine and award reparations and damage claims from proceeds of a commercial exploitation of a crime; permitting an offender's minor dependents to receive some proceeds of a commercial exploitation of a crime; clarifying certain duties of the crime victim ombudsman; prescribing penalties; amending Minnesota Statutes 1986, sections 518B.01, by adding a subdivision; 611A.56; 611A.67; 611A.68, subdivisions 1, 4, 6, 8, and by adding subdivisions; and 611A.74, subdivision 3; and Minnesota Statutes 1987 Supplement, sections 270A.03, subdivisions 2 and 8; and 611A.52, subdivision 8; proposing coding for new law in Minnesota Statutes, chapter 611A; repealing Minnesota Statutes 1986, section 611A.68, subdivisions 2 and 5.

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

Section 1. Minnesota Statutes 1987 Supplement, section 270A.03, subdivision 2, is amended to read:

Subd. 2. "Claimant agency" means any state agency, as defined by section 14.02, subdivision 2, the regents of the University of Minnesota, any district

New language is indicated by underline, deletions by ~~strikeout~~.

court of the state, any county, any public agency responsible for child support enforcement, and any public agency responsible for the collection of court-ordered ~~criminal~~ restitution.

Sec. 2. Minnesota Statutes 1987 Supplement, section 270A.03, subdivision 8, is amended to read:

Subd. 8. "Restitution" means money due to ~~a crime~~ the victim of a crime or a juvenile offense under an order of restitution issued by a court under section 609.10, or 609.125 as part of a sentence or as a condition of probation, or under an order entered by a court under section 260.185, subdivision 1, paragraph (e), following a finding of delinquency.

Sec. 3. Minnesota Statutes 1986, section 518B.01, is amended by adding a subdivision to read:

Subd. 19. RECORDING REQUIRED. Proceedings under this section must be recorded.

Sec. 4. [611A.0315] VICTIM NOTIFICATION; DOMESTIC ASSAULT.

Subdivision 1. NOTICE OF DECISION NOT TO PROSECUTE. A prosecutor shall make every reasonable effort to notify a domestic assault victim 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.

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.

Sec. 5. Minnesota Statutes 1987 Supplement, section 611A.52, subdivision 8, is amended to read:

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;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) reasonable expenses incurred for psychological or psychiatric products, services or accommodations 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, subject to the following limitations:

(i) if treatment is likely to continue longer than six months after the date the claim is filed and the cost of the additional treatment will exceed \$1,500, or if the total cost of treatment in any case will exceed \$4,000, the provider shall first submit to the board a plan which includes the measurable treatment goals, the estimated cost of the treatment, and the estimated date of completion of the treatment. Claims submitted for treatment that was provided more than 30 days after the estimated date of completion may be paid only after advance approval by the board of an extension of treatment; and

(ii) the board may, in its discretion, elect to pay claims under this clause on a quarterly basis;

(3) loss of income greater than \$50 that the victim would have earned had the victim not been injured; ~~and~~

(4) reasonable expenses incurred for substitute child care or household services to replace those the victim would have performed had the victim 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 245.791. 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; and

(5) 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.

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

(1) reasonable expenses actually incurred for funeral, burial, or cremation, not to exceed \$2,250;

(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

New language is indicated by underline, deletions by ~~strikeout~~.

services to replace those which the victim would have performed for the benefit of dependents if the victim 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 less than 18 years old a claim for loss of support may be resubmitted to the board, and the board shall evaluate the claim giving consideration to the child'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.

Sec. 6. Minnesota Statutes 1986, section 611A.56, is amended to read:

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.67~~ 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.67~~ 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, the commissioner of public safety, and the legislature 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.67~~ 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;

New language is indicated by underline, deletions by ~~strikeout~~.

(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.67~~ 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.

Sec. 7. Minnesota Statutes 1986, section 611A.67, is amended to read:

611A.67 FRAUDULENT CLAIMS; PENALTY.

Any person who knowingly makes a false claim under sections 611A.51 to ~~611A.67~~ 611A.68 is guilty of a gross misdemeanor.

Sec. 8. Minnesota Statutes 1986, section 611A.68, subdivision 1, is amended to read:

Subdivision 1. 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.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 9. Minnesota Statutes 1986, section 611A.68, is amended by adding a subdivision to read:

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.

Sec. 10. Minnesota Statutes 1986, section 611A.68, subdivision 4, is amended to read:

Subd. 4. When the board has made reparations payments to or on behalf of a crime victim of the offender's crime pursuant to sections 611A.51 to 611A.67, to the extent of payment made, it is subrogated to any claim or judgment of the victim or a representative against the offender 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.

Sec. 11. Minnesota Statutes 1986, section 611A.68, is amended by adding a subdivision to read:

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

New language is indicated by underline, deletions by ~~strikeout~~.

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.

Sec. 12. Minnesota Statutes 1986, section 611A.68, is amended by adding a subdivision to read:

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.67 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.67, 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.

Sec. 13. Minnesota Statutes 1986, section 611A.68, is amended by adding a subdivision to read:

Subd. 4c. CLAIMS BY OTHER CRIME VICTIMS. The board may use moneys 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.67 under the following circumstances:

(1) moneys 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.

Sec. 14. Minnesota Statutes 1986, section 611A.68, subdivision 6, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. Notwithstanding any other provision of this section, the board shall make payments to a ~~person convicted of crime or found not guilty by reason of insanity~~ an offender from the account of amounts received with reference to that ~~person~~ offender upon the order of a court of competent jurisdiction after a showing by that ~~person~~ offender that the moneys shall be used for the reasonable costs of defense in the appeal of a criminal conviction or in ~~civil~~ proceedings pursuant to this section.

Sec. 15. Minnesota Statutes 1986, section 611A.68, subdivision 8, is amended to read:

Subd. 8. (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 taken, 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 shall be null and void as against the public policy of this state is guilty of a misdemeanor.

Sec. 16. Minnesota Statutes 1986, section 611A.74, subdivision 3, is amended to read:

Subd. 3. **POWERS.** The crime victim ombudsman has those powers necessary to carry out the duties set out in subdivision 1, including:

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

(b) The ombudsman may request and shall be given access to information pertaining to a complaint; ~~unless the information is otherwise restricted.~~ Any information received by the ombudsman retains its data classification under chapter 13 while in the ombudsman's possession.

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

Sec. 17. **REPEALER.**

Minnesota Statutes 1986, section 611A.68, subdivisions 2 and 5, are repealed.

Approved April 26, 1988

New language is indicated by underline, deletions by ~~strikeout~~.