

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 1116

(SENATE AUTHORS: LATZ and Bigham)		
DATE	D-PG	OFFICIAL STATUS
02/17/2021	434	Introduction and first reading Referred to Judiciary and Public Safety Finance and Policy
02/25/2021	573	Chief author stricken, shown as co-author Bigham Chief author added Latz

1.1

A bill for an act

1.2

relating to public safety; improving ability of crime victims to access reimbursement

1.3

program; changing name of reparations program to reimbursement act; amending

1.4

Minnesota Statutes 2020, sections 611A.51; 611A.52, subdivisions 3, 4, 5; 611A.53;

1.5

611A.54; 611A.55; 611A.56; 611A.57, subdivisions 5, 6; 611A.60; 611A.61;

1.6

611A.612; 611A.66; 611A.68, subdivisions 2a, 4, 4b, 4c.

1.7

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

1.8

Section 1. Minnesota Statutes 2020, section 611A.51, is amended to read:

1.9

611A.51 TITLE.

1.10

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

1.11

~~Reparations~~ Reimbursement Act."

1.12

Sec. 2. Minnesota Statutes 2020, section 611A.52, subdivision 3, is amended to read:

1.13

Subd. 3. **Board.** "Board" means the Crime Victims ~~reparations~~ Reimbursement Board

1.14

established by section 611A.55.

1.15

Sec. 3. Minnesota Statutes 2020, section 611A.52, subdivision 4, is amended to read:

1.16

Subd. 4. **Claimant.** "Claimant" means a person entitled to apply for ~~reparations~~

1.17

reimbursement pursuant to sections 611A.51 to 611A.68.

1.18

Sec. 4. Minnesota Statutes 2020, section 611A.52, subdivision 5, is amended to read:

1.19

Subd. 5. **Collateral source.** "Collateral source" means a source of benefits or advantages

1.20

for economic loss otherwise ~~reparable~~ reimbursable under sections 611A.51 to 611A.68

1.21

which the victim or claimant has received, or which is readily available to the victim, from:

- 2.1 (1) the offender;
- 2.2 (2) the government of the United States or any agency thereof, a state or any of its
2.3 political subdivisions, or an instrumentality of two or more states, unless the law providing
2.4 for the benefits or advantages makes them excess or secondary to benefits under sections
2.5 611A.51 to 611A.68;
- 2.6 (3) Social Security, Medicare, and Medicaid;
- 2.7 (4) state required temporary nonoccupational disability insurance;
- 2.8 (5) workers' compensation;
- 2.9 (6) wage continuation programs of any employer;
- 2.10 (7) proceeds of a contract of insurance payable to the victim for economic loss sustained
2.11 because of the crime;
- 2.12 (8) a contract providing prepaid hospital and other health care services, or benefits for
2.13 disability;
- 2.14 (9) any private source as a voluntary donation or gift; or
- 2.15 (10) proceeds of a lawsuit brought as a result of the crime.

2.16 The term does not include a life insurance contract.

2.17 Sec. 5. Minnesota Statutes 2020, section 611A.53, is amended to read:

2.18 **611A.53 ~~REPARATIONS~~ REIMBURSEMENT AWARDS PROHIBITED.**

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

- 2.22 (1) a victim who has incurred economic loss;
- 2.23 (2) a dependent who has incurred economic loss;
- 2.24 (3) the estate of a deceased victim if the estate has incurred economic loss;
- 2.25 (4) any other person who has incurred economic loss by purchasing any of the products,
2.26 services, and accommodations described in section 611A.52, subdivision 8, for a victim;
- 2.27 (5) the guardian, guardian ad litem, conservator or authorized agent of any of these
2.28 persons.

3.1 Subd. 1a. **Providers; limitations.** No hospital, medical organization, health care provider,
3.2 or other entity that is not an individual may qualify for reparations under subdivision 1,
3.3 clause (4). If a hospital, medical organization, health care provider, or other entity that is
3.4 not an individual qualifies for ~~reparations~~ reimbursement under subdivision 1, clause (5),
3.5 because it is a guardian, guardian ad litem, conservator, or authorized agent, any ~~reparations~~
3.6 reimbursement to which it is entitled must be made payable solely or jointly to the victim,
3.7 if alive, or to the victim's estate or successors, if the victim is deceased.

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

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

3.20 Subd. 2. **Limitations on awards.** No ~~reparations~~ reimbursement shall be awarded to a
3.21 claimant otherwise eligible if:

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

3.27 (2) the victim or claimant failed or refused to cooperate fully with the police and other
3.28 law enforcement officials. Cooperation is determined through law enforcement reports,
3.29 prosecutor records, or corroboration memorialized in a signed document submitted by a
3.30 victim service, counseling, or medical professional involved in the case;

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

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

(5) no claim was filed with the board within three years of victim's injury or death; except that (i) 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 (ii) 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: (A) lack of knowledge of the existence of the Minnesota Crime Victims ~~Reparations~~ Reimbursement Act, (B) the failure of a law enforcement agency to provide information or assistance to a potential claimant under section 611A.66, (C) 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 (D) the fact that the claimant is not of the age of majority; or

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

The limitations contained in clauses (1) and (6) 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.

Sec. 6. Minnesota Statutes 2020, section 611A.54, is amended to read:

611A.54 AMOUNT OF ~~REPARATIONS~~ REIMBURSEMENT.

~~Reparations~~ Reimbursement shall equal economic loss except that:

(1) ~~reparations~~ reimbursement 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~~ reimbursement;

(2) ~~reparations~~ reimbursement 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. Contributory misconduct does not include current or past affiliation with any particular group; and

(3) ~~reparations~~ reimbursement 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~~ reimbursement.

5.1 Sec. 7. Minnesota Statutes 2020, section 611A.55, is amended to read:

5.2 **611A.55 CRIME VICTIMS ~~REPARATIONS~~ REIMBURSEMENT BOARD.**

5.3 Subdivision 1. **Creation of board.** There is created in the Department of Public Safety,
5.4 for budgetary and administrative purposes, the Crime Victims ~~Reparations~~ Reimbursement
5.5 Board, which shall consist of five members appointed by the commissioner of public safety.
5.6 One of the members shall be designated as chair by the commissioner of public safety and
5.7 serve as such at the commissioner's pleasure. At least one member shall be a medical or
5.8 osteopathic physician licensed to practice in this state, and at least one member shall be a
5.9 victim, as defined in section 611A.01.

5.10 Subd. 2. **Membership, terms and compensation.** The membership terms, compensation,
5.11 removal of members, and filling of vacancies on the board shall be as provided in section
5.12 15.0575.

5.13 Subd. 3. **Part-time service.** Members of the board shall serve part time.

5.14 Sec. 8. Minnesota Statutes 2020, section 611A.56, is amended to read:

5.15 **611A.56 POWERS AND DUTIES OF BOARD.**

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

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

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

5.23 (3) publicize widely the availability of ~~reparations~~ reimbursement and the method of
5.24 making claims; and

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

5.29 Subd. 2. **Powers.** In addition to exercising any powers specified elsewhere in sections
5.30 611A.51 to 611A.68 or other law, the board upon its own motion or the motion of a claimant
5.31 or the attorney general may:

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

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

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

(4) 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;

(5) 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;

(6) 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;

(7) grant emergency ~~reparations~~ reimbursement 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

(8) reconsider any decision granting or denying ~~reparations~~ reimbursement or determining their amount.

Sec. 9. Minnesota Statutes 2020, section 611A.57, subdivision 5, is amended to read:

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~~ reimbursement upon reconsideration is entitled to a contested case hearing within the meaning of chapter 14.

Sec. 10. Minnesota Statutes 2020, section 611A.57, subdivision 6, is amended to read:

Subd. 6. **Data.** Claims for ~~reparations~~ reimbursement 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~~ reimbursement claim forms, supporting documents, and reports to local law enforcement authorities for purposes of implementing section 611A.67.

Sec. 11. Minnesota Statutes 2020, section 611A.60, is amended to read:

611A.60 ~~REPARATIONS~~ REIMBURSEMENT; HOW PAID.

~~Reparations~~ Reimbursement 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~~ Reimbursement is 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~~ reimbursement awarded be paid directly to these suppliers.

Sec. 12. Minnesota Statutes 2020, section 611A.61, is amended to read:

611A.61 SUBROGATION.

Subdivision 1. **Subrogation rights of state.** The state shall be subrogated, to the extent of ~~reparations~~ reimbursement 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~~ reimbursement 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~~ reimbursement. 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.

8.1 Sec. 13. Minnesota Statutes 2020, section 611A.612, is amended to read:

8.2 **611A.612 CRIME VICTIMS ACCOUNT.**

8.3 A crime victim account is established as a special account in the state treasury. Amounts
8.4 collected by the state under section 611A.61, paid to the Crime Victims ~~Reparations~~
8.5 Reimbursement Board under section 611A.04, subdivision 1a, or amounts deposited by the
8.6 court under section 611A.04, subdivision 5, shall be credited to this account. Money credited
8.7 to this account is annually appropriated to the Department of Public Safety for use for crime
8.8 victim ~~reparations~~ reimbursement under sections 611A.51 to 611A.67.

8.9 Sec. 14. Minnesota Statutes 2020, section 611A.66, is amended to read:

8.10 **611A.66 LAW ENFORCEMENT AGENCIES; DUTY TO INFORM VICTIMS**
8.11 **OF RIGHT TO FILE CLAIM.**

8.12 All law enforcement agencies investigating crimes shall provide victims with notice of
8.13 their right to apply for ~~reparations~~ reimbursement with the telephone number ~~to call to~~
8.14 ~~request~~ and website information to obtain an application form.

8.15 Law enforcement agencies shall assist the board in performing its duties under sections
8.16 611A.51 to 611A.68. Law enforcement agencies within ten days after receiving a request
8.17 from the board shall supply the board with requested reports, notwithstanding any provisions
8.18 to the contrary in chapter 13, and including reports otherwise maintained as confidential or
8.19 not open to inspection under section 260B.171 or 260C.171. All data released to the board
8.20 retains the data classification that it had in the possession of the law enforcement agency.

8.21 Sec. 15. Minnesota Statutes 2020, section 611A.68, subdivision 2a, is amended to read:

8.22 Subd. 2a. **Notice and payment of proceeds to board required.** A person that enters
8.23 into a contract with an offender convicted in this state, and a person that enters into a contract
8.24 in this state with an offender convicted in this state or elsewhere within the United States,
8.25 must comply with this section if the person enters into the contract during the ten years after
8.26 the offender is convicted of a crime or found not guilty by reason of insanity. If an offender
8.27 is imprisoned or committed to an institution following the conviction or finding of not guilty
8.28 by reason of insanity, the ten-year period begins on the date of the offender's release. A
8.29 person subject to this section must notify the Crime Victims ~~Reparations~~ Reimbursement
8.30 Board of the existence of the contract immediately upon its formation, and pay over to the
8.31 board money owed to the offender or the offender's representatives by virtue of the contract
8.32 according to the following proportions:

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

(2) 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

(3) 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. 16. Minnesota Statutes 2020, section 611A.68, subdivision 4, is amended to read:

Subd. 4. **Deductions.** When the board has made ~~reparations~~ reimbursement 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~~ reimbursement 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. 17. Minnesota Statutes 2020, section 611A.68, subdivision 4b, is amended 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~~ reimbursement and damages to the board to be paid from money received by virtue of the offender's contract:

(1) claims for ~~reparations~~ reimbursement 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~~ reimbursement 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.

10.1 Sec. 18. Minnesota Statutes 2020, section 611A.68, subdivision 4c, is amended to read:

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

10.6 (1) money remain after deductions and allocations have been made under subdivisions
10.7 4 and 4a, and claims have been paid under subdivision 4b; or

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

10.10 None of this money may be used for purposes other than ~~the payment of reparations~~
10.11 reimbursement.

10.12 Sec. 19. **REVISOR INSTRUCTION.**

10.13 In Minnesota Statutes, the revisor of statutes shall change "reparations," "reparable," or
10.14 the same or similar terms to "reimbursement," "reimbursable," or the same or similar terms
10.15 consistent with this act. The revisor shall also make other technical changes resulting from
10.16 the change of term to the statutory language, sentence structure, or both, if necessary to
10.17 preserve the meaning of the text.