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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3485

02/12/2024 Authored by Moller and Curran The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; modifying restitution provisions for crime victims;
1.3 amending Minnesota Statutes 2022, sections 609.10, subdivision 2; 609.125,
1.4 subdivision 2; 611A.02, subdivision 2; Minnesota Statutes 2023 Supplement,
1.5 sections 609A.03, subdivision 5; 611A.039, subdivision 1; 611A.52, subdivision
1.6 5; proposing coding for new law in Minnesota Statutes, chapter 611A; repealing
1.7 Minnesota Statutes 2022, sections 611A.04, subdivisions 1b, 2, 4, 6; 611A.045;
1.8 Minnesota Statutes 2023 Supplement, section 611A.04, subdivisions 1, 1a, 3, 5.

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

1.10 Section 1. Minnesota Statutes 2022, section 609.10, subdivision 2, is amended to read:

1.11 Subd. 2. Restitution. (a) As used in this section, "restitution" includes:

1.12 (1) payment of compensation to the victim or the victim's family; and

1.13 (2) if the victim is deceased or already has been fully compensated, payment of money
1.14 to a victim assistance program or other program directed by the court.

1.15 "Restitution" includes payment of compensation to a government entity that incurs loss
1.16 as a direct result of a crime.

1.17 (b) When the defendant does not pay the entire amount of court-ordered restitution and
1.18 the fine at the same time, the court may shall order that all restitution shall be paid before
1.19 the fine is paid.

1.20 Sec. 2. Minnesota Statutes 2022, section 609.125, subdivision 2, is amended to read:

1.21 Subd. 2. Restitution. (a) As used in this section, "restitution" includes:

1.22 (1) payment of compensation to the victim or the victim's family; and

2.1 (2) if the victim is deceased or already has been fully compensated, payment of money
2.2 to a victim assistance program or other program directed by the court.

2.3 "Restitution" includes payment of compensation to a government entity that incurs loss
2.4 as a direct result of a crime.

2.5 (b) When the defendant does not pay the entire amount of court-ordered restitution and
2.6 the fine at the same time, the court ~~may~~ shall order that all restitution shall be paid before
2.7 the fine is paid.

2.8 Sec. 3. Minnesota Statutes 2023 Supplement, section 609A.03, subdivision 5, is amended
2.9 to read:

2.10 Subd. 5. **Nature of remedy; standard.** (a) Except as otherwise provided by paragraph
2.11 (b), expungement of a criminal record under this section is an extraordinary remedy to be
2.12 granted only upon clear and convincing evidence that it would yield a benefit to the petitioner
2.13 commensurate with the disadvantages to the public and public safety of:

2.14 (1) sealing the record; and

2.15 (2) burdening the court and public authorities to issue, enforce, and monitor an
2.16 expungement order.

2.17 (b) Except as otherwise provided by this paragraph, if the petitioner is petitioning for
2.18 the sealing of a criminal record under section 609A.02, subdivision 3, paragraph (a), clause
2.19 (1) or (2), the court shall grant the petition to seal the record unless the agency or jurisdiction
2.20 whose records would be affected establishes by clear and convincing evidence that the
2.21 interests of the public and public safety outweigh the disadvantages to the petitioner of not
2.22 sealing the record.

2.23 (c) In making a determination under this subdivision, the court shall consider:

2.24 (1) the nature and severity of the underlying crime, the record of which would be sealed;

2.25 (2) the risk, if any, the petitioner poses to individuals or society;

2.26 (3) the length of time since the crime occurred;

2.27 (4) the steps taken by the petitioner toward rehabilitation following the crime;

2.28 (5) aggravating or mitigating factors relating to the underlying crime, including the
2.29 petitioner's level of participation and context and circumstances of the underlying crime;

2.30 (6) the reasons for the expungement, including the petitioner's attempts to obtain
2.31 employment, housing, or other necessities;

- 3.1 (7) the petitioner's criminal record;
- 3.2 (8) the petitioner's record of employment and community involvement;
- 3.3 (9) the recommendations of interested law enforcement, prosecutorial, and corrections
3.4 officials;
- 3.5 (10) the recommendations of victims or whether victims of the underlying crime were
3.6 minors;
- 3.7 (11) the amount, if any, of restitution outstanding, past efforts made by the petitioner
3.8 toward payment, ~~and~~ the measures in place to help ensure completion of restitution payment
3.9 after expungement of the record if granted, and whether the restitution order has been
3.10 docketed as a civil judgment according to section 611A.041, subdivision 10; and
- 3.11 (12) other factors deemed relevant by the court.

3.12 (d) Notwithstanding section 13.82, 13.87, or any other law to the contrary, if the court
3.13 issues an expungement order it may require that the criminal record be sealed, the existence
3.14 of the record not be revealed, and the record not be opened except as required under
3.15 subdivision 7. Records must not be destroyed or returned to the subject of the record.

3.16 (e) Information relating to a criminal history record of an employee, former employee,
3.17 or tenant that has been expunged before the occurrence of the act giving rise to the civil
3.18 action may not be introduced as evidence in a civil action against a private employer or
3.19 landlord or its employees or agents that is based on the conduct of the employee, former
3.20 employee, or tenant.

3.21 Sec. 4. Minnesota Statutes 2022, section 611A.02, subdivision 2, is amended to read:

3.22 Subd. 2. **Victims' rights.** (a) The Office of Justice Programs in the Department of Public
3.23 Safety shall update the two model notices of the rights of crime victims.

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

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

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

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

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

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

4.5 (6) in homicide cases, information on rights and procedures available under sections
4.6 524.2-803, 524.3-614, and 524.3-615.

4.7 (c) A supplemental notice of the rights of crime victims must be distributed by the city
4.8 or county attorney's office to each victim, within a reasonable time after the offender is
4.9 charged or petitioned. This notice must inform a victim of all the rights of crime victims
4.10 under this chapter and include information about how to make a request for restitution and
4.11 the forms necessary to make that request.

4.12 Sec. 5. Minnesota Statutes 2023 Supplement, section 611A.039, subdivision 1, is amended
4.13 to read:

4.14 Subdivision 1. **Notice required.** (a) Except as otherwise provided in subdivision 2,
4.15 within 15 working days after a conviction, acquittal, or dismissal in a criminal case in which
4.16 there is an identifiable crime victim, the prosecutor shall make reasonable good faith efforts
4.17 to provide to each affected crime victim oral or written notice of the final disposition of the
4.18 case and of the victim rights under section 611A.06, any restitution that has been ordered
4.19 to the victim, and information about the process for civil judgment. When the court is
4.20 considering modifying the sentence for a felony or a crime of violence or an attempted
4.21 crime of violence, the prosecutor shall make a reasonable and good faith effort to notify the
4.22 victim of the crime. If the victim is incapacitated or deceased, notice must be given to the
4.23 victim's family. If the victim is a minor, notice must be given to the victim's parent or
4.24 guardian. The notice must include:

4.25 (1) the date and approximate time of the review;

4.26 (2) the location where the review will occur;

4.27 (3) the name and telephone number of a person to contact for additional information;
4.28 and

4.29 (4) a statement that the victim and victim's family may provide input to the court
4.30 concerning the sentence modification.

4.31 (b) The Office of Justice Programs in the Department of Public Safety shall develop and
4.32 update a model notice of postconviction rights under this subdivision and section 611A.06.

5.1 (c) As used in this section, "crime of violence" has the meaning given in section 624.712,
5.2 subdivision 5, and also includes violations of section 609.3458, gross misdemeanor violations
5.3 of section 609.224, and nonfelony violations of sections 518B.01, 609.2231, 609.3451,
5.4 609.748, and 609.749.

5.5 Sec. 6. 611A.041 RESTITUTION.

5.6 Subdivision 1. Right to restitution. A victim of a crime has the right to receive restitution
5.7 as part of the disposition of a criminal charge or juvenile delinquency proceeding against
5.8 the offender.

5.9 Subd. 2. Submission of request. (a) When providing the notice to the victim required
5.10 by section 611A.02, subdivision 2, paragraph (c), the prosecutor shall provide information
5.11 to the victim about the process to request restitution, the documentation necessary to support
5.12 the request, and the forms necessary to make the request. The information submitted by the
5.13 victim relating to restitution must describe the items or elements of loss, itemize the total
5.14 dollar amounts of restitution claimed, and specify the reasons justifying the amounts. A
5.15 request for restitution may include but is not limited to any out-of-pocket losses resulting
5.16 from the crime, including medical and therapy costs, replacement of wages and services,
5.17 expenses incurred to return a child who was a victim of a crime under section 609.26 to the
5.18 child's parents or lawful custodian, and funeral expenses.

5.19 (b) The prosecutor or their designee shall collect and submit the restitution request form
5.20 or affidavit and supporting documentation to the court administrator of the appropriate court
5.21 at least five business days before the sentencing or dispositional hearing. Copies of the
5.22 request form or affidavit and accompanying documentation must be provided to the offender
5.23 or, if represented, to the offender's attorney at least five business days before the sentencing
5.24 or dispositional hearing, and the restitution amount being requested must be provided to
5.25 the officer conducting a presentence or predispositional investigation. The presentence
5.26 investigation report made according to section 609.115, subdivision 1, must contain the
5.27 information described in this subdivision.

5.28 Subd. 3. Ordering restitution. (a) The court, in determining whether to order restitution
5.29 and the amount of the restitution, shall consider the following factors:

5.30 (1) the amount of economic loss sustained by the victim as a result of the offense; and

5.31 (2) the income, resources, and obligations of the offender.

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

6.1 the victim waive or otherwise forfeit any rights or causes of action as a condition of granting
6.2 restitution or partial restitution. An actual or prospective civil action involving the alleged
6.3 crime shall not be used by the court as a basis to deny a victim's right to obtain court-ordered
6.4 restitution under this section. The court may not require the victim to file an insurance claim
6.5 as a condition for requesting and receiving restitution nor set a restitution amount that
6.6 anticipates an insurance claim being filed by the victim, and the court may not take into
6.7 consideration gifts or donations to the victim in setting restitution.

6.8 (c) Restitution shall be ordered jointly and severally when there are multiple offenders
6.9 unless the court orders offenders to pay different restitution amounts, provided the court
6.10 states on the record the basis for the offenders not having joint and several liability for the
6.11 entire restitution amount.

6.12 Subd. 4. **Sentencing or dispositional hearing; ordering restitution.** (a) Upon
6.13 consideration of the restitution request at the sentencing or dispositional hearing, the court
6.14 shall order the offender to pay a specified amount as part of the offender's sentence based
6.15 on the restitution request presented to the court. If there is a likelihood of additional
6.16 out-of-pocket losses after the order is entered due to the ongoing nature of the loss incurred
6.17 by the victim, the court shall state on the record that upon submission of subsequent
6.18 restitution requests, the restitution order may be amended. If the court denies part or all of
6.19 the restitution requested, the court shall state on the record its reasons for its decision.

6.20 (b) If the restitution request was submitted at or before the sentencing hearing but did
6.21 not meet the timelines specified under subdivision 2, paragraph (b), the court may order
6.22 restitution or set a hearing on restitution. If a restitution request form or affidavit was not
6.23 submitted prior to or at the hearing, restitution shall not be ordered unless by agreement of
6.24 the prosecutor and the offender. If no restitution is ordered, upon request of the prosecutor,
6.25 restitution may be reserved for up to 60 days. To request restitution after restitution has
6.26 been reserved, the prosecutor shall submit the restitution request form or affidavit to the
6.27 court within the reserved period, and upon submission to the court, provide copies of the
6.28 request form or affidavit and accompanying documentation to the offender or, if represented,
6.29 to the offender's attorney. To contest restitution, the offender must submit a request for
6.30 hearing and motion to the court according to the procedures under subdivision 5.

6.31 Subd. 5. **Contesting restitution.** (a) An offender may challenge the requested restitution
6.32 by filing a request for a hearing with the court administrator and providing copies of the
6.33 request to the prosecutor. The offender's request must include a motion that sets forth all
6.34 challenges to the restitution and specifies the reasons for specific amounts that differ from
6.35 the amounts requested by the victim or victims. The motion must include any affidavits or

7.1 other documents supporting the motion. This motion and request for hearing must be
7.2 submitted to the court within 30 days of receiving written notification of the amount of
7.3 restitution requested or within 30 days of sentencing, whichever is later. An offender may
7.4 not challenge restitution after the 30-day time period has passed. Upon the offender's request
7.5 for the hearing, the court administrator shall, within ten business days, schedule a hearing
7.6 and provide notice of the hearing to the offender or, if represented, to the offender's attorney,
7.7 and the prosecutor.

7.8 (b) At the hearing on the restitution request, the burden of demonstrating the amount of
7.9 loss sustained by a victim as a result of the offense and the appropriateness of a particular
7.10 type of restitution is on the prosecution. The offender has the burden to produce evidence
7.11 to challenge the amount of restitution or specific items of restitution or their dollar amounts.
7.12 A dispute as to the proper amount or type of restitution must be resolved by the court by a
7.13 preponderance of the evidence.

7.14 Subd. 6. **Later restitution requests and amendments; procedure.** (a) The court may
7.15 issue an order of restitution if no restitution was ordered or reserved at the sentencing or
7.16 dispositional hearing if:

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

7.19 (2) the true extent of the victim's loss or the loss of the Crime Victims Reimbursement
7.20 Board was not known at the time of the sentencing or dispositional hearing, or hearing on
7.21 the restitution request; and

7.22 (3) good cause is shown for not meeting the submission timelines specified in subdivision
7.23 2.

7.24 (b) The court may amend an order of restitution after the sentencing or dispositional
7.25 hearing, or hearing on the restitution request, if:

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

7.28 (2) the true extent of the victim's loss or the loss of the Crime Victims Reimbursement
7.29 Board was not known at the time of the sentencing or dispositional hearing, or hearing on
7.30 the restitution request.

7.31 (c) To make a request for restitution provided for under paragraph (a) or (b), the
7.32 prosecutor shall submit a request form or affidavit to the court. Upon submission to the

8.1 court, the prosecutor shall provide copies of the request form or affidavit and accompanying
8.2 documentation to the offender or, if represented, to the offender's attorney.

8.3 (d) To contest the restitution request under this subdivision, the offender must submit a
8.4 request for hearing and motion to the court according to the procedures under subdivision
8.5 5. If restitution is not contested, the court shall order the offender to pay a specified amount
8.6 as part of the offender's sentence based on the restitution request submitted to the court.

8.7 Subd. 7. **Payment schedule; financial disclosure.** (a) The court shall include in every
8.8 restitution order a provision that the offender must, within 60 days of the order, either pay
8.9 the entire restitution amount ordered or set up a payment plan according to this subdivision.
8.10 If the defendant is placed on supervised probation, the payment schedule or structure must
8.11 be incorporated into the probation agreement and must provide that the obligation to pay
8.12 restitution continues throughout the term of probation.

8.13 (b) The court may assign the responsibility for developing restitution payment plans to
8.14 the court administrator, the probation office, a correctional agency, the county attorney's
8.15 office, or another designated person or agency. The payment plan shall specify the installment
8.16 amount and the frequency of payment, and shall take into consideration the amount of
8.17 restitution owed, the length of probation or supervision period, and financial factors related
8.18 to the offender including monthly gross income, number of dependents, and child and
8.19 spousal support obligations. Unless otherwise ordered by the court, the installment payments
8.20 shall be paid monthly.

8.21 (c) An offender or prosecutor may request that the court review the payment plan by
8.22 filing a request for a hearing and submitting a motion that sets forth the challenges to the
8.23 current payment plan. A payment plan may be modified to reflect the offender's income,
8.24 resources, and obligations, or to take into account significant changes in circumstances that
8.25 impact the offender's ability to pay restitution, including loss or gain of employment, new
8.26 sources of income, and new financial obligations.

8.27 (d) An offender who has not paid restitution within 60 days of restitution being ordered
8.28 shall, upon request, complete and submit financial disclosure forms and any requested
8.29 supporting documentation to the court administrator, probation office, correctional agency,
8.30 county attorney's office, or another designated person or agency responsible for collecting
8.31 restitution or establishing a payment plan. An offender released from a Department of
8.32 Corrections facility and on supervised release may be directed by the offender's supervising
8.33 agent to complete the financial disclosure forms and set up a payment plan as a condition
8.34 of the offender's supervised release. The offender may be directed to provide verification

9.1 to the supervising agent that a payment plan has been established with the court administrator.
9.2 The commissioner of corrections shall develop a model financial disclosure affidavit.

9.3 (e) Data provided by the offender in the financial disclosure forms or affidavits submitted
9.4 under this subdivision are classified as court data under section 13.84, subdivision 1, subject
9.5 to the victim's right to information under section 13.84, subdivision 6, paragraph (a), clause
9.6 (2).

9.7 Subd. 8. **Crime Victims Reimbursement Board request.** The Crime Victims
9.8 Reimbursement Board may request restitution on behalf of a victim by filing a copy of
9.9 orders of the board, if any, which detail any amounts paid by the board to the victim. The
9.10 board may file the payment order with the court administrator or with the person or agency
9.11 the court has designated to obtain information relating to restitution. The board shall submit
9.12 the payment order not less than three business days after the order is issued by the board.
9.13 The court administrator or designee shall provide copies of the payment order to the
9.14 prosecutor and the offender or the offender's attorney within 48 hours of receiving the order
9.15 from the board or at least 24 hours before the sentencing or dispositional hearing, whichever
9.16 is earlier. By operation of law, the issue of restitution is reserved if the payment order is
9.17 not received at least three days before the sentencing or dispositional hearing. The filing of
9.18 a payment order for reimbursement with the court administrator shall also serve as a request
9.19 for restitution by the victim. The restitution requested by the board may be considered to
9.20 be both on its own behalf and on behalf of the victim. If the board has not paid reimbursement
9.21 to the victim or on the victim's behalf, restitution may be made directly to the victim. If the
9.22 board has paid reimbursement to the victim or on the victim's behalf, the court shall order
9.23 restitution payments to be made directly to the board.

9.24 Subd. 9. **Payment and disbursement of restitution.** The offender shall make restitution
9.25 payments to the court administrator of the county, municipal, or district court of the county
9.26 in which the restitution is to be paid. The court administrator shall disburse restitution in
9.27 incremental payments and may not keep a restitution payment for longer than 30 days,
9.28 except that the court administrator is not required to disburse a restitution payment that is
9.29 under \$10 unless the payment would fulfill the offender's restitution obligation. When the
9.30 court orders the payment of restitution and the payment of a fine, fees, surcharges, or other
9.31 financial obligations, the court administrator shall apply any payments to the restitution
9.32 obligation before applying payments to the fine, fees, surcharges, or other financial
9.33 obligations, unless otherwise ordered by the court. The court administrator shall keep records
9.34 of the amount of restitution ordered in each case, any change made to the restitution order,

10.1 and the amount of restitution actually paid by the offender. The court administrator shall
10.2 compile the data and make it available to the Supreme Court and the legislature upon request.

10.3 Subd. 10. **Civil judgment.** (a) An order of restitution shall be entered and docketed as
10.4 a civil judgment, according to the process in this subdivision, in the name of any person or
10.5 entity named in the order, by the court administrator of the district court in the county in
10.6 which the order of restitution originated. For the restitution order to be entered and docketed,
10.7 the victim or Crime Victims Reimbursement Board must submit a form, as provided for in
10.8 section 548.09, subdivision 2, to the court administrator of the district court in the county
10.9 in which the restitution order was entered that identifies the victim as the judgment creditor.
10.10 If, by the expiration of the sentence or end of probation, the victim or Crime Victims
10.11 Reimbursement Board has not submitted the form, the court administrator shall enter the
10.12 restitution order as a civil judgment. Following the entry, the judgment shall be docketed
10.13 upon submission of the form provided for in section 548.09, subdivision 2, by the victim
10.14 or the Crime Victims Reimbursement Board. Filing fees for docketing an order of restitution
10.15 as a civil judgment are waived for any person or entity named in the restitution order. Upon
10.16 entry of judgment, the court administrator shall serve a notice of entry of judgment and
10.17 judgment on the prosecutor, offender, and victim. Interest shall accrue on the unpaid balance
10.18 of a judgment that has been entered as provided in section 549.09. A victim may request
10.19 that location information provided to the court for purposes of enforcing the restitution order
10.20 be sealed according to court rules. In the case of an offender who is on probation, the court
10.21 may not refuse to enforce an order for restitution solely on the grounds that the order has
10.22 been entered and docketed as a civil judgment. A juvenile court is not required to appoint
10.23 a guardian ad litem for a juvenile offender before entering and docketing a restitution order.

10.24 (b) A civil restitution judgment that has not been fully satisfied may be renewed by the
10.25 victim or the Crime Victims Reimbursement Board by service of the notice of renewal of
10.26 civil restitution judgment on the offender. Service must be by first class mail to the last
10.27 known address of the offender, with service deemed complete upon mailing by first class
10.28 mail, or in the manner provided for the service of civil process. The victim or the Crime
10.29 Victims Reimbursement Board must file the notice of renewal of civil restitution judgment
10.30 and proof of service with the court administrator in the county in which the restitution order
10.31 was entered. Upon filing of the notice and proof of service, the court administrator shall
10.32 administratively renew the judgment for restitution in the same court file as the original
10.33 civil restitution judgment. The judgment must be renewed in an amount equal to the unpaid
10.34 restitution plus the accrued unpaid interest. Civil restitution judgments may be renewed
10.35 multiple times until paid. Notice of the renewal of civil restitution judgment and proof of

11.1 service must be filed with the court administrator no later than ten years after the entry of
11.2 the original restitution judgment or the last renewal, whichever is later.

11.3 Subd. 11. **Effect of order for restitution.** An order of restitution may be enforced by
11.4 any person named in the order to receive the restitution or by the Crime Victims
11.5 Reimbursement Board in the same manner as a judgment in a civil action. Any order for
11.6 restitution in favor of a victim shall also operate as an order for restitution in favor of the
11.7 Crime Victims Reimbursement Board, if the board has paid reimbursement to the victim
11.8 or on the victim's behalf. The court administrator shall notify the commissioner of revenue
11.9 of the restitution debt in the manner provided in chapter 270A, the Revenue Recapture Act.
11.10 Whether the order of restitution has been docketed or not, it is a debt that is not dischargeable
11.11 in bankruptcy. A decision for or against restitution in any criminal or juvenile proceeding
11.12 is not a bar to any civil action by the victim or by the state according to section 611A.61
11.13 against the offender. The offender shall be given credit, in any order for judgment in favor
11.14 of a victim in a civil action, for any restitution paid to the victim for the same injuries for
11.15 which the judgment is awarded.

11.16 Subd. 12. **Unclaimed restitution payments.** (a) Restitution payments held by the court
11.17 for a victim that remain unclaimed by the victim for more than three years shall be deposited
11.18 in the crime victims account under section 611A.612.

11.19 (b) At the time the deposit is made, the court shall record the name and last known
11.20 address of the victim and the amount being deposited, and shall forward the data to the
11.21 Crime Victims Reimbursement Board.

11.22 Subd. 13. **Estate of victim.** If a victim dies before or after a request for restitution is
11.23 made or an order for restitution is issued, the personal representative of the victim's estate
11.24 may request or enforce an order for restitution on behalf of the victim. If a personal
11.25 representative is not appointed and no application is pending, an heir of the victim may file
11.26 an affidavit to request or enforce an order for restitution according to this subdivision.
11.27 Appointment of a personal representative does not affect the right of other victims, as defined
11.28 in section 611A.01, to request an order for restitution on their behalf.

11.29 Sec. 7. Minnesota Statutes 2023 Supplement, section 611A.52, subdivision 5, is amended
11.30 to read:

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

- 12.1 (1) the offender;
- 12.2 (2) the government of the United States or any agency thereof, a state or any of its
12.3 political subdivisions, or an instrumentality of two or more states, unless the law providing
12.4 for the benefits or advantages makes them excess or secondary to benefits under sections
12.5 611A.51 to 611A.68;
- 12.6 (3) Social Security, Medicare, and Medicaid;
- 12.7 (4) state required temporary nonoccupational disability insurance;
- 12.8 (5) workers' compensation;
- 12.9 (6) wage continuation programs of any employer;
- 12.10 (7) proceeds of a contract of insurance payable to the victim for economic loss sustained
12.11 because of the crime;
- 12.12 (8) a contract providing prepaid hospital and other health care services, or benefits for
12.13 disability; or
- 12.14 ~~(9) any private source as a voluntary donation or gift; or~~
- 12.15 ~~(10)~~ (9) proceeds of a lawsuit brought as a result of the crime.
- 12.16 The term does not include a life insurance contract.

12.17 Sec. 8. **REPEALER.**

12.18 (a) Minnesota Statutes 2022, sections 611A.04, subdivisions 1b, 2, 4, and 6; and
12.19 611A.045, are repealed.

12.20 (b) Minnesota Statutes 2023 Supplement, section 611A.04, subdivisions 1, 1a, 3, and
12.21 5, are repealed.

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 Reimbursement 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 Reimbursement 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 Reimbursement 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 reimbursement 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 reimbursement to the victim or on the victim's behalf, reimbursement may be made directly to the victim. If the board has paid reimbursement to the victim or on the victim's behalf, the court shall order restitution payments to be made directly to the board.

APPENDIX
Repealed Minnesota Statutes: 24-06155

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 Reimbursement 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 Reimbursement Board, if the board has paid reimbursement 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 reimbursement 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 the payment of restitution and the payment of a fine, fees, surcharges, or other financial obligations, the court administrator shall apply any payments to the restitution obligation before applying payments to the fine, fees, surcharges, or other financial obligations, unless otherwise ordered by the court.

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 Reimbursement Board.

Subd. 6. **Estate of victim.** If a victim dies before or after a request for restitution is made or an order for restitution is issued, the personal representative of the victim's estate may request or enforce an order for restitution on behalf of the victim. If a personal representative is not appointed and no application is pending, an heir of the victim may file an affidavit to request or enforce an order for restitution pursuant to this subdivision. Appointment of a personal representative does not affect the right of other victims, as defined in section 611A.01, to request an order for restitution on their behalf.

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.

APPENDIX
Repealed Minnesota Statutes: 24-06155

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. 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.