

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 769

(SENATE AUTHORS: JENSEN, Wiger, Schmit, Eaton and Sparks)

DATE	D-PG	OFFICIAL STATUS
02/25/2013	392	Introduction and first reading Referred to Judiciary
03/13/2013	935a	Comm report: To pass as amended and re-refer to State and Local Government
03/18/2013		Comm report: To pass as amended Second reading

A bill for an act

1.1 relating to public safety; clarifying certain statutory provisions relating to crime
 1.2 victim rights and programs; providing for a restitution working group; amending
 1.3 Minnesota Statutes 2012, sections 611A.0315; 611A.036, subdivision 7; 629.72,
 1.4 subdivisions 1, 2, 6, 7; 629.73; proposing coding for new law in Minnesota
 1.5 Statutes, chapter 13.
 1.6

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

1.8 Section 1. **[13.854] RELEASE OF ARRESTED, DETAINED, OR CONFINED**
 1.9 **PERSON; AUTOMATED NOTIFICATION SERVICE.**

1.10 For requests for notification of change in custody status of an arrested, detained, or
 1.11 confined person from the Department of Corrections or other custodial authority made
 1.12 through an automated electronic notification system, all identifying information regarding
 1.13 the person requesting notification and the notice provided by the automated system is
 1.14 classified as private data on individuals as defined in section 13.02, subdivision 12, and
 1.15 is accessible only to that person.

1.16 Sec. 2. Minnesota Statutes 2012, section 611A.0315, is amended to read:

1.17 **611A.0315 VICTIM NOTIFICATION; DOMESTIC ASSAULT; CRIMINAL**
 1.18 **SEXUAL CONDUCT; ~~HARASSMENT~~ STALKING.**

1.19 Subdivision 1. **Notice of decision not to prosecute.** (a) A prosecutor shall make
 1.20 every reasonable effort to notify a victim of domestic assault, a criminal sexual conduct
 1.21 offense, or ~~harassment~~ stalking that the prosecutor has decided to decline prosecution of
 1.22 the case or to dismiss the criminal charges filed against the defendant. Efforts to notify the
 1.23 victim should include, in order of priority: (1) contacting the victim or a person designated

2.1 by the victim by telephone; and (2) contacting the victim by mail. If a suspect is still in
2.2 custody, the notification attempt shall be made before the suspect is released from custody.

2.3 (b) Whenever a prosecutor dismisses criminal charges against a person accused of
2.4 domestic assault, a criminal sexual conduct offense, or ~~harassment~~ stalking, a record
2.5 shall be made of the specific reasons for the dismissal. If the dismissal is due to the
2.6 unavailability of the witness, the prosecutor shall indicate the specific reason that the
2.7 witness is unavailable.

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

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

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

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

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

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

2.21 (e) "Criminal sexual conduct offense" means a violation of sections 609.342 to
2.22 609.3453.

2.23 Sec. 3. Minnesota Statutes 2012, section 611A.036, subdivision 7, is amended to read:

2.24 Subd. 7. **Definition.** As used in this section, "violent crime" means a violation or
2.25 attempt to violate any of the following: section 609.185 (murder in the first degree);
2.26 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20
2.27 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.21
2.28 (criminal vehicular homicide and injury); 609.221 (assault in the first degree); 609.222
2.29 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault
2.30 in the fourth degree); 609.2241 (knowing transfer of communicable disease); 609.2242
2.31 (domestic assault); 609.2245 (female genital mutilation); 609.2247 (domestic assault
2.32 by strangulation); 609.228 (great bodily harm caused by distribution of drugs); 609.23
2.33 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients);
2.34 609.2325 (criminal abuse); 609.233 (criminal neglect); 609.235 (use of drugs to injure
2.35 or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25

3.1 (kidnapping); 609.255 (false imprisonment); 609.265 (abduction); 609.2661 (murder of
 3.2 an unborn child in the first degree); 609.2662 (murder of an unborn child in the second
 3.3 degree); 609.2663 (murder of an unborn child in the third degree); 609.2664 (manslaughter
 3.4 of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the
 3.5 second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault
 3.6 of an unborn child in the second degree); 609.2672 (assault of an unborn child in the third
 3.7 degree); 609.268 (injury or death of an unborn child in commission of a crime); 609.282
 3.8 (labor trafficking); 609.322 (solicitation, inducement, and promotion of prostitution; sex
 3.9 trafficking); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal
 3.10 sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third
 3.11 degree); 609.345 (criminal sexual conduct in the fourth degree); 609.3451 (criminal
 3.12 sexual conduct in the fifth degree); 609.3453 (criminal sexual predatory conduct); 609.352
 3.13 (solicitation of children to engage in sexual conduct); 609.377 (malicious punishment of a
 3.14 child); 609.378 (neglect or endangerment of a child); 609.561, subdivision 1; (arson in the
 3.15 first degree; dwelling); 609.582, subdivision 1, paragraph (a) or (c); (burglary in the first
 3.16 degree; occupied dwelling or involving an assault); ~~or~~ 609.66, subdivision 1e, paragraph
 3.17 (b); (drive-by shooting; firing at or toward a person, or an occupied building or motor
 3.18 vehicle); or 609.749, subdivision 2 (stalking).

3.19 Sec. 4. Minnesota Statutes 2012, section 629.72, subdivision 1, is amended to read:

3.20 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms
 3.21 have the meanings given them.

3.22 (b) "Domestic abuse" has the meaning given in section 518B.01, subdivision 2.

3.23 (c) "~~Harassment~~ Stalking" has the meaning given in section 609.749.

3.24 (d) "Violation of a domestic abuse no contact order" has the meaning given in
 3.25 section 629.75.

3.26 (e) "Violation of an order for protection" has the meaning given in section 518B.01,
 3.27 subdivision 14.

3.28 Sec. 5. Minnesota Statutes 2012, section 629.72, subdivision 2, is amended to read:

3.29 Subd. 2. **Judicial review; release; bail.** (a) The judge before whom the arrested
 3.30 person is brought shall review the facts surrounding the arrest and detention of a person
 3.31 arrested for domestic abuse, ~~harassment~~ stalking, violation of an order for protection, or
 3.32 violation of a domestic abuse no contact order. The prosecutor or prosecutor's designee
 3.33 shall present relevant information involving the victim's or the victim's family's account
 3.34 of the alleged crime to the judge to be considered in determining the arrested person's

4.1 release. In making a decision concerning pretrial release conditions of a person arrested
4.2 for domestic abuse, ~~harassment~~ stalking, violation of an order for protection, or violation
4.3 of a domestic abuse no contact order, the judge shall review the facts of the arrest and
4.4 detention of the person and determine whether: (1) release of the person poses a threat to
4.5 the alleged victim, another family or household member, or public safety; or (2) there is a
4.6 substantial likelihood the person will fail to appear at subsequent proceedings. Before
4.7 releasing a person arrested for or charged with a crime of domestic abuse, ~~harassment~~
4.8 stalking, violation of an order for protection, or violation of a domestic abuse no contact
4.9 order, the judge shall make findings on the record, to the extent possible, concerning the
4.10 determination made in accordance with the factors specified in clauses (1) and (2).

4.11 (b) The judge may impose conditions of release or bail, or both, on the person
4.12 to protect the alleged victim or other family or household members and to ensure the
4.13 appearance of the person at subsequent proceedings. These conditions may include an
4.14 order:

4.15 (1) enjoining the person from threatening to commit or committing acts of domestic
4.16 abuse or ~~harassment~~ stalking against the alleged victim or other family or household
4.17 members or from violating an order for protection or a domestic abuse no contact order;

4.18 (2) prohibiting the person from harassing, annoying, telephoning, contacting, or
4.19 otherwise communicating with the alleged victim, either directly or indirectly;

4.20 (3) directing the person to vacate or stay away from the home of the alleged victim
4.21 and to stay away from any other location where the alleged victim is likely to be;

4.22 (4) prohibiting the person from possessing a firearm or other weapon specified by
4.23 the court;

4.24 (5) prohibiting the person from possessing or consuming alcohol or controlled
4.25 substances; and

4.26 (6) specifying any other matter required to protect the safety of the alleged victim
4.27 and to ensure the appearance of the person at subsequent proceedings.

4.28 (c) If conditions of release are imposed, the judge shall issue a written order for
4.29 conditional release. The court administrator shall immediately distribute a copy of the
4.30 order for conditional release to the agency having custody of the arrested person and shall
4.31 provide the agency having custody of the arrested person with any available information
4.32 on the location of the victim in a manner that protects the victim's safety. Either the court
4.33 or its designee or the agency having custody of the arrested person shall serve upon the
4.34 defendant a copy of the order. Failure to serve the arrested person with a copy of the order
4.35 for conditional release does not invalidate the conditions of release.

5.1 (d) If the judge imposes as a condition of release a requirement that the person have
5.2 no contact with the alleged victim, the judge may also, on its own motion or that of the
5.3 prosecutor or on request of the victim, issue an ex parte temporary restraining order under
5.4 section 609.748, subdivision 4, or an ex parte temporary order for protection under section
5.5 518B.01, subdivision 7. Notwithstanding section 518B.01, subdivision 7, paragraph
5.6 (b), or 609.748, subdivision 4, paragraph (c), the temporary order is effective until the
5.7 defendant is convicted or acquitted, or the charge is dismissed, provided that upon request
5.8 the defendant is entitled to a full hearing on the restraining order under section 609.748,
5.9 subdivision 5, or on the order for protection under section 518B.01. The hearing must be
5.10 held within seven days of the defendant's request.

5.11 Sec. 6. Minnesota Statutes 2012, section 629.72, subdivision 6, is amended to read:

5.12 Subd. 6. **Notice; release of arrested person.** (a) Immediately after issuance of a
5.13 citation in lieu of continued detention under subdivision 1, or the entry of an order for
5.14 release under subdivision 2, but before the arrested person is released, the agency having
5.15 custody of the arrested person or its designee must make a reasonable and good faith effort
5.16 to inform orally the alleged victim, local law enforcement agencies known to be involved
5.17 in the case, if different from the agency having custody, and, at the victim's request any
5.18 local battered women's and domestic abuse programs established under section 611A.32
5.19 or sexual assault programs of:

5.20 (1) the conditions of release, if any;

5.21 (2) the time of release;

5.22 (3) the time, date, and place of the next scheduled court appearance of the arrested
5.23 person and the victim's right to be present at the court appearance; and

5.24 (4) if the arrested person is charged with domestic abuse, the location and telephone
5.25 number of the area battered women's shelter as designated by the ~~Department of~~
5.26 Corrections Office of Justice Programs in the Department of Public Safety.

5.27 (b) As soon as practicable after an order for conditional release is entered, the
5.28 agency having custody of the arrested person or its designee must personally deliver or
5.29 mail to the alleged victim a copy of the written order and written notice of the information
5.30 in paragraph (a), clauses (2) and (3).

5.31 (c) All identifying information regarding the victim including, but not limited to, the
5.32 notice provided by the custodial authority is classified as private data on individuals as
5.33 defined in section 13.02, subdivision 12, and is accessible only to the victim.

5.34 Sec. 7. Minnesota Statutes 2012, section 629.72, subdivision 7, is amended to read:

6.1 Subd. 7. **Notice to victim regarding bail hearing.** (a) When a person arrested for
 6.2 or a juvenile detained for domestic assault or ~~harassment~~ stalking is scheduled to be
 6.3 reviewed under subdivision 2 for release from pretrial detention, the court shall make
 6.4 a reasonable good faith effort to notify:

6.5 (1) the victim of the alleged crime;

6.6 (2) if the victim is incapacitated or deceased, the victim's family; and

6.7 (3) if the victim is a minor, the victim's parent or guardian.

6.8 (b) The notification must include:

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

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

6.11 (3) the name and telephone number of a person that can be contacted for additional
 6.12 information; and

6.13 (4) a statement that the victim and the victim's family may attend the review.

6.14 Sec. 8. Minnesota Statutes 2012, section 629.73, is amended to read:

6.15 **629.73 NOTICE TO CRIME VICTIM; RELEASE OF ARRESTED OR**
 6.16 **DETAINED PERSON.**

6.17 Subdivision 1. **Oral notice.** When a person arrested or a juvenile detained for a
 6.18 crime of violence or an attempted crime of violence is about to be released from pretrial
 6.19 detention, the agency having custody of the arrested or detained person or its designee
 6.20 shall make a reasonable and good faith effort before release to inform orally the victim
 6.21 or, if the victim is incapacitated, the same or next of kin, or if the victim is a minor, the
 6.22 victim's parent or guardian of the following matters:

6.23 (1) the conditions of release, if any;

6.24 (2) the time of release;

6.25 (3) the time, date, and place of the next scheduled court appearance of the arrested
 6.26 or detained person and, where applicable, the victim's right to be present at the court
 6.27 appearance; and

6.28 (4) the location and telephone number of the at least one area sexual assault program
 6.29 crime victim service provider as designated by the ~~commissioner of corrections~~ Office
 6.30 of Justice Programs in the Department of Public Safety.

6.31 Subd. 2. **Written notice.** As soon as practicable after the arrested or detained person
 6.32 is released, the agency having custody of the arrested or detained person or its designee
 6.33 must personally deliver or mail to the alleged victim written notice of the information
 6.34 contained in subdivision 1, clauses (2) and (3).

7.1 Subd. 3. **Private data.** All identifying information regarding the victim including,
7.2 but not limited to, the notice provided by the custodial authority is classified as private
7.3 data on individuals as defined in section 13.02, subdivision 12, and is accessible only
7.4 to the victim.

7.5 **Sec. 9. WORKING GROUP; REPORT.**

7.6 Subdivision 1. **Direction.** By August 1, 2013, the Department of Public Safety shall
7.7 convene a working group to study how restitution is currently being requested, ordered,
7.8 and collected in Minnesota.

7.9 The commissioner of public safety shall invite representatives from the Department
7.10 of Corrections, city and county prosecuting agencies, statewide crime victim coalitions,
7.11 Minnesota Judicial Branch, county probation departments, Minnesota Association of
7.12 Community Corrections Act counties, Minnesota Board of Public Defenders, and other
7.13 interested parties to participate in the working group.

7.14 The state court administrator's office shall provide to the working group summary
7.15 data on the restitution.

7.16 Subd. 2. **Duties.** The working group must review, assess, and make specific
7.17 recommendations with regard to the following areas:

7.18 (1) the process by which restitution is requested by victims and ordered by the
7.19 court, including procedures used by prosecutors' offices, probation and court services,
7.20 and court administration;

7.21 (2) the statutory mechanisms for collecting restitution, including the establishment
7.22 of payment plans, revenue recapture, and entry of civil judgments;

7.23 (3) state and local policies, procedures, and strategies for collecting restitution,
7.24 including restitution collection units, designated restitution probation officers, and
7.25 department of corrections administrative policies; and

7.26 (4) the extent to which data on restitution is collected.

7.27 Subd. 3. **Report to legislature.** The commissioner of public safety shall file a report
7.28 detailing the working group's findings and recommendations with the chairs and ranking
7.29 minority members of the house of representatives and senate committees having jurisdiction
7.30 over criminal justice policy and funding by January, 2015. The report may include
7.31 recommendations for legislation designed to improve, in a cost-efficient manner, the right
7.32 to restitution granted to victims of crime under Minnesota Statutes, section 611A.04.