

than the renting or leasing of space for a continuous period of 30 days or more. The tax does not apply to the furnishing of lodging by a business having less than 50 lodging rooms. The tax shall be collected by and its proceeds paid to the city. Ninety-five percent of the revenues generated by this tax shall be used to fund a convention bureau to market and promote the city as a tourist or convention center.

Sec. 32. **REPEALER.**

Minnesota Statutes 1984, section 383A.41, as amended by Laws 1985, chapter 89, section 21, is repealed.

Sec. 33. **EFFECTIVE DATE.**

Sections 11, 12, 13, and 32 are effective when the initial board of directors take office according to section 3. Sections 1 to 10, and 14 to 27 are effective the day after the Ramsey county board files a certificate of local approval in compliance with section 645.021, subdivision 3.

Sections 28, 29, and 30 are effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the St. Paul city council. Section 31 is effective the day after final enactment.

Approved March 25, 1986

CHAPTER 463—H.F.No. 1958

An act relating to crimes; regulating entry to burial sites; providing protections and rights to victims of crime; making changes to the crime victims reparations act; providing for the treatment of certain witnesses; amending Minnesota Statutes 1984, sections 307.08; 609.135, by adding a subdivision; 609.26, subdivision 5; 611A.04, subdivision 2; 611A.06; 611A.53, subdivision 1, and by adding a subdivision; 611A.57, by adding a subdivision; 611A.61; Minnesota Statutes 1985 Supplement, sections 609.101; 609.26, subdivision 1; 611A.52; 611A.53, subdivision 2; 611A.54; and 611A.56, subdivision 1; 611A.71, subdivision 2; 631.046; proposing coding for new law in Minnesota Statutes, chapter 611A.

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

Section 1. Minnesota Statutes 1984, section 307.08, is amended to read:

307.08 DAMAGES; ILLEGAL MOLESTATION OF HUMAN REMAINS; BURIALS; CEMETERIES; PENALTY.

Subdivision 1. It is a declaration and statement of legislative intent that all human burials and human skeletal remains shall be accorded equal treatment and respect for human dignity without reference to their ethnic origins, cultural backgrounds, or religious affiliations. The provisions of this section shall apply

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to all human burials or human skeletal remains found on or in all public or private lands or waters in Minnesota.

Subd. 2. A person who intentionally, willfully, ~~or~~ and knowingly destroys, mutilates, injures, or removes human skeletal remains or human burials; ~~or is guilty of a felony.~~ A person who intentionally, willfully, or knowingly removes any tombstone, monument, or structure placed in any public or private cemetery or unmarked human burial ground, or any fence, railing, or other work erected for protection or ornament, or any tree, shrub, or plant or grave goods and artifacts within the limits of the cemetery or burial ground, and a person who, without authority from the trustees, state archaeologist, or Indian affairs intertribal board, discharges any firearms upon or over the grounds of any public or private cemetery or authenticated and identified Indian burial ground, is guilty of a gross misdemeanor.

Subd. 3. Every authenticated and identified ~~Indian~~ burial ground may be at ~~the discretion of the state archaeologist and the Indian affairs intertribal board,~~ posted for protective purposes every 75 feet around its perimeter with signs listing the activities prohibited by subdivision 2 and the penalty for violation of it. Posting is at the discretion of the Indian affairs council in the case of Indian burials or at the discretion of the state archaeologist in the case of non-Indian burials.

Subd. 3a. The state archaeologist shall authenticate all burial sites for purposes of this section and may enter on property for the purpose of authenticating burial sites. Only after obtaining written permission from the property owner or lessee, descendants of persons buried in burial sites covered by this section may enter the burial sites for the purpose of conducting religious ceremonies. This right of entry must not unreasonably burden property owners or unnecessarily restrict their use of the property.

Subd. 4. The state shall retain the services of a qualified professional archaeologist, approved by the state archaeologist and the Indian affairs ~~intertribal board~~ council, for the purpose of ~~authenticating and identifying gathering information to authenticate or identify~~ Indian burial grounds when requested by a concerned scientific or contemporary Indian ethnic group, when Indian burials are known or suspected to exist on public lands or waters controlled by the state or political subdivision.

Subd. 5. The cost of authentication, identification ~~and~~, marking, and rescue of unmarked or unidentified burial grounds or burials shall be the responsibility of the state.

Subd. 6. The size, description and information on the signs must be approved by the Minnesota state historical society.

Subd. 7. All unidentified human remains or burials found outside of platted, recorded, or identified cemeteries and ~~dating prior to 1886 A.D.~~ in contexts which indicate antiquity greater than 50 years shall be dealt with according to

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the provisions of this section. If such burials ~~do~~ are not ~~contain manufactured trade goods or can be established to date prior to 1700 A.D.~~ Indian or their ethnic identity cannot be ascertained, as determined by a qualified professional the state archaeologist, they shall be dealt with in accordance with provisions established by the state archaeologist. If such burials ~~date after 1700 A.D. are Indian~~, as determined by a qualified professional the state archaeologist, efforts shall be made by the state archaeologist and the Indian affairs ~~intertribal board~~ council to ascertain their tribal identity. If their probable tribal identity can be determined, such remains shall at the discretion of the state archaeologist and Indian affairs ~~intertribal board~~ council, be turned over to contemporary tribal leaders for disposition. If it is deemed desirable by the state archaeologist or the Indian affairs ~~intertribal board~~ council, such remains shall be studied by a qualified professional archaeologist before being delivered to the tribal leaders. If tribal identity cannot be determined, the Indian remains must be dealt with in accordance with provisions established by the state archaeologist and the Indian affairs council.

Subd. 8. No authenticated and identified Indian burial ground may be relocated unless the request to relocate is approved by the Indian affairs intertribal board. When the Indian burial ground is located on public lands or waters, the cost of removal is the responsibility of and shall be paid by the state or political subdivision controlling the lands or waters. If large Indian burial grounds are involved, efforts shall be made by the state to purchase and protect them instead of removing them to another location.

Subd. 9. The department of natural resources, the department of transportation, and all other state agencies and local governmental units whose activities may be affected, shall cooperate with the state archaeologist and the Indian affairs intertribal board to carry out the provisions of this section.

Subd. 10. When Indian burials are known or suspected to exist, on public lands or waters, the state or political subdivision controlling the lands or waters shall submit construction and development plans to the state archaeologist and the Indian affairs intertribal board for review prior to the time bids are advertised. The state archaeologist and the Indian affairs intertribal board shall promptly review the plans and make recommendations for the preservation or removal of the human burials or remains, which may be endangered by construction or development activities.

Sec. 2. Minnesota Statutes 1985 Supplement, section 609.101, is amended to read:

609.101 SURCHARGE ON FINES, ASSESSMENTS.

When a court sentences a person convicted of a felony, gross misdemeanor, or misdemeanor, other than a petty misdemeanor such as a traffic or parking violation, and if the sentence does not include payment of a fine, the court shall impose an assessment of not less than \$20 nor more than \$40. If the sentence for the felony, gross misdemeanor, or misdemeanor includes payment of a fine

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of any amount, including a fine of less than \$100, the court shall impose a surcharge on the fine of ten percent of the fine. This section applies whether or not the person is sentenced to imprisonment and when the sentence is suspended. The court may, ~~upon a showing of indigency or undue hardship upon the convicted person or his immediate family,~~ not waive payment or authorize payment of the assessment or surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment or surcharge would create undue hardship for the convicted person or that person's immediate family.

The court shall collect and forward to the commissioner of finance the total amount of the assessment or surcharge and the commissioner shall credit all money so forwarded to the general fund for the purposes of providing services, assistance, or reparations or a combination, to victims of crimes through programs established under ~~sections 611A.21 to 611A.36, under chapters 256D and 299B~~ 611A. If the convicted person is sentenced to imprisonment, the chief executive officer of the correctional facility in which the convicted person is incarcerated may collect the assessment or surcharge from any earnings the inmate accrues for work performed in the correctional facility and forward the amount to the commissioner of finance.

Sec. 3. Minnesota Statutes 1984, section 609.135, is amended by adding a subdivision to read:

Subd. 1b. FAILURE TO PAY RESTITUTION. If the court orders payment of restitution as a condition of probation and if the defendant fails to pay the restitution ordered prior to 60 days before the term of probation expires, the defendant's probation officer shall ask the court to hold a hearing to determine whether or not the conditions of probation should be changed or probation should be revoked. The court shall schedule and hold this hearing and take appropriate action before the defendant's term of probation expires.

Sec. 4. Minnesota Statutes 1985 Supplement, section 609.26, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED ACTS.** Whoever intentionally does any of the following acts may be charged with a felony and, upon conviction, may be sentenced as provided in subdivision 6:

(1) conceals a minor child from the child's parent where the action manifests an intent substantially to deprive that parent of parental rights or conceals a minor child from another person having the right to visitation or custody where the action manifests an intent to substantially deprive that person of rights to visitation or custody;

(2) takes, obtains, retains, or fails to return a minor child in violation of a court order which has transferred legal custody under chapter 260 to the commissioner of human services, a child placing agency, or the county welfare board;

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(3) takes, obtains, retains, or fails to return a minor child from or to the parent in violation of a court order, where the action manifests an intent substantially to deprive that parent of rights to visitation or custody; or

(4) takes, obtains, retains, or fails to return a minor child from or to a parent after commencement of an action relating to child visitation or custody but prior to the issuance of an order determining custody or visitation rights, where the action manifests an intent substantially to deprive that parent of parental rights.

Sec. 5. Minnesota Statutes 1984, section 609.26, subdivision 5, is amended to read:

Subd. 5. **DISMISSAL OF CHARGE.** A felony charge brought under this section shall be dismissed if:

(a) the person voluntarily returns the child within 14 days after he takes, detains, or fails to return the child in violation of this section; or

(b)(1) the person taking the action and the child have not left the state of Minnesota; and (2) within a period of 14 days after taking the action, (i) a motion or proceeding under chapters 518, 518A, 518B, or 518C is commenced by the person taking the action, or (ii) the attorney representing the person taking the action has consented to service of process by the party whose rights are being deprived, for any motion or action pursuant to chapters 518, 518A, 518B, or 518C.

Clause (a) does not apply if the person returns the child as a result of being located by law enforcement authorities.

Sec. 6. [611A.031] **VICTIM INPUT REGARDING PRETRIAL DIVERSION.**

A prosecutor shall make every reasonable effort to notify and seek input from the victim prior to the referral into a pretrial diversion program in lieu of prosecution.

Sec. 7. [611A.032] **SPEEDY TRIAL; NOTICE OF SCHEDULE CHANGE.**

A prosecutor shall make reasonable efforts to provide advance notice of any change in the schedule of the court proceedings to a victim who has been subpoenaed or requested to testify.

Sec. 8. [611A.035] **CONFIDENTIALITY OF VICTIM'S ADDRESS.**

No victim providing testimony in court proceedings may be compelled to state the victim's home or employment address on the record in open court.

Sec. 9. [611A.036] **PROHIBITION AGAINST EMPLOYER RETALIATION.**

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An employer or employer's agent who threatens to discharge or discipline a victim, or who discharges, disciplines, or causes a victim to be discharged from employment or disciplined because the victim is subpoenaed or requested* by the prosecutor to attend court for the purpose of giving testimony, is guilty of a misdemeanor and may be punished for contempt of court. In addition, the court shall order the employer to offer job reinstatement to any victim discharged from employment in violation of this section, and to pay the victim back wages as appropriate.

Sec. 10. Minnesota Statutes 1984, section 611A.04, subdivision 2, is amended to read:

Subd. 2. **PROCEDURES.** The offender shall make restitution payments to the clerk of the county, municipal, or district court of the county in which the restitution is to be paid. The clerk 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 clerk 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.

Sec. 11. Minnesota Statutes 1984, section 611A.06, is amended to read:

611A.06 RIGHT TO NOTICE OF RELEASE.

The commissioner of corrections or other custodial authority shall make a good faith effort to notify the victim that the offender is to be released from imprisonment or incarceration, ~~other than~~ including release on extended furlough and for work release, or released from a facility in which the offender was confined due to incompetency, mental illness, or mental deficiency, or commitment under section 253B.18, prior to the release if the victim has mailed to the commissioner of corrections or to the head of the facility in which the offender is confined a written request for this notice. The commissioner or other custodial authority complies with this section if he mails the notice of impending release to the victim at the address which the victim has most recently provided to him in writing.

Sec. 12. Minnesota Statutes 1985 Supplement, section 611A.52, is amended to read:

611A.52 DEFINITIONS.

Subdivision 1. TERMS. For the purposes of sections 611A.51 to 611A.67 the following terms shall have the meanings given them:

(1) Subd. 2. ACCOMPLICE. "Accomplice" means any person who would be held criminally liable for the crime of another pursuant to section 609.05.

(2) Subd. 3. BOARD. "Board" means the crime victims reparations board established by section 611A.55.

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(3) Subd. 4. CLAIMANT. "Claimant" means a person entitled to apply for reparations pursuant to sections 611A.51 to 611A.67.

(4) Subd. 5. COLLATERAL SOURCE. "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable under sections 611A.51 to 611A.67 which the victim or claimant has received, or which is readily available to him, from:

(a) (1) the offender;

(b) (2) the government of the United States or any agency thereof, a state or any of its political subdivisions, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under sections 611A.51 to 611A.67;

(c) (3) social security, medicare, and medicaid;

(d) (4) state required temporary nonoccupational disability insurance;

(e) (5) workers' compensation;

(f) (6) wage continuation programs of any employer;

(g) (7) proceeds of a contract of insurance payable to the victim for economic loss which he sustained because of the crime;

(h) (8) a contract providing prepaid hospital and other health care services, or benefits for disability; or

(i) (9) any private source as a voluntary donation or gift.

The term does not include a life insurance contract.

(5) Subd. 6. CRIME. (a) "Crime" means conduct that:

(i) (1) occurs or is attempted ~~in~~ anywhere within the geographical boundaries of this state, including Indian reservations and other trust lands;

(ii) (2) poses a substantial threat of personal injury or death; and

(iii) (3) is included within the definition of "crime" in Minnesota Statutes 1971, section 609.02, subdivision 1, or would be included within that definition but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state.

(b) A crime occurs whether or not any person is prosecuted or convicted but the conviction of a person whose acts give rise to the claim is conclusive evidence that a crime was committed unless an application for rehearing, appeal, or petition for certiorari is pending or a new trial or rehearing has been ordered.

(c) "Crime" does not include conduct arising out of the use of a motor

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vehicle, as defined in section 169.01, subdivision 2, an aircraft or watercraft unless:

(i) (1) the conduct was intended to cause personal injury or death; or

(ii) (2) the use of the motor vehicle, aircraft or watercraft in the commission of a felony was a proximate cause of the victim's injury or death; or

(iii) (3) the claim arises out of a violation of section 609.21.

(6) Subd. 7. DEPENDENT. "Dependent" means any person who was dependent upon a deceased victim for support at the time of the crime.

(7) 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:

(i) (1) reasonable expenses incurred for necessary medical, chiropractic, hospital, rehabilitative, and dental products, services, or accommodations, including ambulance services, drugs, appliances and prosthetic devices;

(ii) (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;

(iii) (3) loss of income the victim would have earned had he not been injured; and

(iv) (4) reasonable expenses incurred for substitute child care or household services to replace those the victim would have performed had he 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 parts 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.

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

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

(ii) (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;

(iii) (3) loss of support, including contributions of money, products or goods, but excluding services which the victim would have supplied to his dependents if he had lived; and

(iv) (4) reasonable expenses incurred for substitute child care and household services to replace those which the victim would have performed for the benefit of his dependents if he 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.

(8) Subd. 9. INJURY. "Injury" means actual bodily harm including pregnancy and mental or nervous shock.

(9) Subd. 10. VICTIM. "Victim" means a person who suffers personal injury or death as a direct result of:

(a) (1) a crime;

(b) (2) the good faith effort of any person to prevent a crime; or

(c) (3) the good faith effort of any person to apprehend a person suspected of engaging in a crime.

Sec. 13. Minnesota Statutes 1984, section 611A.53, subdivision 1, is amended to read:

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

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- (a) a victim who has incurred economic loss;
- (b) a dependent who has incurred economic loss;
- (c) the estate of a deceased victim if the estate has incurred economic loss;
- (d) any other person who has incurred economic loss by purchasing any of the products, services, and accommodations described in section 611A.52, clause (7), for a victim;
- (e) the guardian, guardian ad litem, conservator or authorized agent of any of these persons.

Sec. 14. Minnesota Statutes 1984, section 611A.53, is amended by adding a subdivision to read:

Subd. 1a. PROVIDERS; LIMITATIONS. No hospital, medical organization, health care provider, or other entity that is not an individual may qualify for reparations under subdivision 1, clause (d). If a hospital, medical organization, health care provider, or other entity that is not an individual qualifies for reparations under subdivision 1, clause (e) because it is a guardian, guardian ad litem, conservator, or authorized agent, any reparations to which it is entitled must be made payable solely or jointly to the victim, if alive, or to the victim's estate or successors, if the victim is deceased.

Sec. 15. Minnesota Statutes 1985 Supplement, section 611A.53, subdivision 2, is amended to read:

Subd. 2. No reparations shall be awarded to a claimant otherwise eligible if:

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

(b) the victim or claimant failed or refused to cooperate fully with the police and other law enforcement officials;

(c) the claimant was the offender or an accomplice of the offender or an award to the claimant would unjustly benefit the offender or an accomplice;

(d) no claim was filed with the board within one year of victim's injury or death ~~but if it could not have been made; except that (1) if the claimant was unable to file a claim within that period, then the claim can be made within one year of the time when a claim could have been made filed; and (2) if the victim's injury or death was not reasonably discoverable within one year of the injury or death, then the claim can be made within one year 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: (1) lack of knowledge of the existence of the Minnesota crime victims reparations act, (2)~~

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the failure of a law enforcement agency to provide information or assistance to a potential claimant under section 611A.66, or (3) 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

(e) the claim is less than \$100.

The limitations contained in clauses (a) and (d) do not apply to victims of domestic child abuse as defined in section 260.015, subdivision 24.

Sec. 16. Minnesota Statutes 1985 Supplement, section 611A.54, is amended to read:

611A.54 AMOUNT OF REPARATIONS.

Reparations shall equal economic loss except that:

(1) reparations 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;

(2) reparations shall be 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 he claims; and

(3) reparations 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.

Sec. 17. Minnesota Statutes 1985 Supplement, section 611A.56, subdivision 1, is amended to read:

Subdivision 1. **DUTIES.** In addition to carrying out any duties specified elsewhere in sections 611A.51 to 611A.67 or in other law, the board shall:

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

(b) ~~promulgate within 90 days following the effective date of Laws 1974, chapter 463 adopt~~ rules to implement and administer sections 611A.51 to 611A.67, 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

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public safety, and the legislature a report of its activities including the ~~name of each claimant~~ 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.

Sec. 18. Minnesota Statutes 1984, section 611A.57, is amended by adding a subdivision to read:

Subd. 6. Claims for reparations 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.

Sec. 19. Minnesota Statutes 1984, 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 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 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. 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.

Sec. 20. Minnesota Statutes 1985 Supplement, section 611A.71, subdivision 2, is amended to read:

Subd. 2. **MEMBERSHIP.** The crime victim and witness advisory council shall consist of the following members, appointed by the commissioner of public safety after consulting with the commissioner of corrections:

(1) two members of the Minnesota legislature who have demonstrated expertise and interest in crime victims issues, one from each house;

(2) one district court judge appointed upon recommendation of the chief justice of the supreme court;

(3) one county attorney appointed upon recommendation of the Minnesota county attorneys association;

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(4) one public defender appointed upon recommendation of the state public defender;

(5) one peace officer;

(6) one medical or osteopathic physician licensed to practice in this state; ~~and~~

(7) five members who are crime victims or crime victim assistance representatives; and

(8) three public members.

The appointments should take into account sex, race, and geographic distribution. One of the nonlegislative members must be designated by the commissioner of public safety as chair of the council.

Sec. 21. Minnesota Statutes 1985 Supplement, section 631.046, is amended to read:

631.046 AUTHORIZING PRESENCE OF PARENT SUPPORT PERSON FOR MINOR PROSECUTING WITNESS.

Subdivision 1. CHILD ABUSE CASES. Notwithstanding any other law, a prosecuting witness under 18 years of age in a case involving child abuse as defined in section 630.36, subdivision 2, may choose to have in attendance a parent, guardian, or other supportive person, whether or not a witness, at the omnibus hearing or at the trial, during testimony of the prosecuting witness. If the person so chosen is also a prosecuting witness, the prosecution shall present on noticed motion, evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing the court shall grant the request unless information presented by the defendant or noticed by the court establishes that the support person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony.

Subd. 2. OTHER CASES. Notwithstanding any other law, a prosecuting witness in any case involving criminal sexual conduct as defined in sections 609.342, 609.343, 609.344, and 609.345 may choose to be accompanied by a supportive person, whether or not a witness, at the omnibus or other pre-trial hearing. If the supportive person is also a witness, the prosecution and the court shall follow the motion procedure outlined in subdivision 1 to determine whether or not the supportive person's presence will be permitted.

Approved March 25, 1986

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