

## CHAPTER 299B

### CRIME VICTIMS REPARATIONS

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#### 299B.01 TITLE.

Sections 299B.01 to 299B.16 shall be known as the Minnesota crime victims reparations act.

**History:** 1974 c 463 s 1

#### 299B.02 DEFINITIONS.

For the purposes of sections 299B.01 to 299B.16 the following terms shall have the meanings given them:

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

(2) "Board" means the crime victims reparations board established by section 299B.05.

(3) "Claimant" means a person entitled to apply for reparations pursuant to sections 299B.01 to 299B.16.

(4) "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable under sections 299B.01 to 299B.16 which the victim or claimant has received, or which is readily available to him, from:

(a) the offender;

(b) 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 299B.01 to 299B.16;

(c) social security, medicare, and medicaid;

(d) state required temporary non-occupational disability insurance;

(e) workers' compensation;

(f) wage continuation programs of any employer;

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

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

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

The term does not include a life insurance contract.

(5) (a) "Crime" means conduct that

(i) occurs or is attempted in this state,

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

(iii) 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 vehicle, as defined in section 169.01, subdivision 2, an aircraft or watercraft unless

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

(ii) 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.

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

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

(ii) 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;

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

(iv) reasonable expenses incurred for substitute child care or household services to replace those the victim would have performed had he not been injured.

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

(i) reasonable expenses incurred for funeral, burial or cremation;

(ii) 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) 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) 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.

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

(9) "Victim" means a person who suffers personal injury or death as a direct result of

(a) a crime;

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

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

**History:** 1974 c 463 s 2; 1975 c 359 s 23

**299B.03 ELIGIBILITY FOR REPARATIONS.**

Subdivision 1. Except as provided in subdivision 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:

- (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 299B.02, clause (7), for a victim;
- (e) the guardian, guardian ad litem, conservator or authorized agent of any of these persons.

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;
- (b) the victim or claimant failed or refused to cooperate fully with the police and other law enforcement officials;
- (c) the victim is the spouse of or a person living in the same household with the offender or his accomplice or the parent, child, brother or sister of the offender or his accomplice unless the board determined that the interests of justice otherwise require in a particular case;
- (d) 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; or
- (e) no claim was filed with the board within one year of victim's injury or death but if it could not have been made within that period, then the claim can be made within one year of the time when a claim could have been made;
- (f) the claim is less than \$100.

**History:** 1974 c 463 s 3; 1975 c 246 s 1; 1976 c 2 s 119; 1976 c 193 s 1

**299B.04 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;
- (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 by the first \$100 of economic loss; 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 \$25,000.

**History:** 1974 c 463 s 4; 1977 c 356 s 1

**299B.05 CRIME VICTIMS REPARATIONS BOARD.**

Subdivision 1. There is created in the department of public safety, for budgetary and administrative purposes, the crime victims reparations board, which shall consist of three members appointed by the governor with the advice and consent of the senate. One of the members shall be designated as chairman by the governor and serve as such at his pleasure. At least one member shall be a person who is admitted to the bar of this state, and at least one member shall be a medical or osteopathic physician licensed to practice in this state.

Subd. 2. [Repealed, 1976 c 134 s 79]

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

Subd. 3. Members of the board shall serve part time.

**History:** 1974 c 463 s 5; 1976 c 134 s 64,65

**299B.06 POWERS AND DUTIES OF THE BOARD.**

Subdivision 1. **Duties.** In addition to carrying out any duties specified elsewhere in sections 299B.01 to 299B.16 or in other law, the board shall:

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

(b) establish and maintain a principal office and other necessary offices and appoint employees and agents as necessary and fix their duties;

(c) promulgate within 90 days following the effective date of Laws 1974, Chapter 463 rules to implement sections 299B.01 to 299B.16, 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;

(d) publicize widely the availability of reparations and the method of making claims; and

(e) prepare and transmit annually to the governor and the legislature a report of its activities including the name of each claimant, a brief description of the facts in each case, the amount of reparation awarded, and a statistical summary of claims and awards made and denied.

Subd. 2. **Powers.** In addition to exercising any powers specified elsewhere in sections 299B.01 to 299B.16 or other law, the board upon its own motion or the motion of a claimant or the attorney general may:

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

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

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

(d) order a mental or physical examination of a victim or an autopsy of a deceased victim provided that notice is given to the person to be examined and that the claimant and the attorney general receive copies of any resulting report;

(e) suspend or postpone the proceedings on a claim if a criminal prosecution arising out of the incident which is the basis of the claim has been commenced or is imminent;

(f) request from prosecuting attorneys and law enforcement officers investigations and data to enable the board to perform its duties under sections 299B.01 to 299B.16;

(g) grant emergency reparations pending the final determination of a claim if it is one with respect to which an award will probably be made and undue hardship will result to the claimant if immediate payment is not made; and

(h) reconsider any decision granting or denying reparations or determining their amount.

**History:** 1974 c 463 s 6; 1982 c 424 s 130

**299B.07 DETERMINATION OF CLAIMS.**

Subdivision 1. A claim, when accepted for filing, shall be assigned by the chairman to himself or to another member of the board.

Subd. 2. The board member to whom the claim is assigned shall examine the papers filed in support of the claim and cause an investigation to be conducted into the validity of the claim.

Subd. 3. The board member to whom a claim is assigned may decide the claim in favor of a claimant in the amount claimed on the basis of the papers filed in support of it and the report of the investigation of such claim. If the board member is unable to decide such claim upon the basis of the papers and report, he shall order a hearing.

Subd. 4. After examining the papers filed in support of the claim and the report of investigation, and after a hearing, if any, the board member to whom the claim was assigned shall make a decision either granting an award or deny the claim.

Subd. 5. The board member making a decision shall file with the board a written report setting forth such decision and his reasons therefor. The board shall notify the claimant and furnish him a copy of the report.

**History:** 1974 c 463 s 7

#### **299B.071 ATTORNEYS FEES; LIMITATION FOR REPRESENTATION BEFORE BOARD.**

The board may limit the fee charged by any attorney for representing a claimant before the board.

**History:** 1975 c 246 s 2

#### **299B.08 CONSIDERATION OF DECISIONS BY FULL BOARD.**

Subdivision 1. The claimant may, within 30 days after receipt of the report of the decision of the board member to whom his claim was assigned, make an application in writing to the board for consideration of the decision by the full board.

Subd. 2. Any member of the board may, within 30 days after the filing of the report, make an application in writing to the board for consideration of the decision by the full board.

Subd. 3. The board shall treat all claims considered pursuant to this section as contested cases within the meaning of chapter 14.

**History:** 1974 c 463 s 8; 1982 c 424 s 130

#### **299B.09 REPARATIONS; HOW PAID.**

Reparations may be awarded in a lump sum or in installments in the discretion of the board. The amount of any emergency award shall be deducted from the final award, if a lump sum, or prorated over a period of time if the final award is made in installments. Reparations are exempt from execution or attachment except by persons who have supplied services, products or accommodations to the victim as a result of the injury or death which is the basis of the claim. The board, in its discretion may order that all or part of the reparations awarded be paid directly to these suppliers.

**History:** 1974 c 463 s 9

#### **299B.10 SUBROGATION.**

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.

**History:** 1974 c 463 s 10; 1979 c 173 s 1

**299B.11 MEDICAL PRIVILEGE.**

There is no privilege as to communication or records relevant to an issue of the physical, mental, or emotional condition of the claimant or victim in a proceeding under sections 299B.01 to 299B.16 in which that condition is an issue. Nothing contained in this section shall be interpreted to abridge the attorney-client privilege.

**History:** 1974 c 463 s 11

**299B.12 ENFORCEMENT OF BOARD'S ORDERS.**

If a person refuses to comply with an order of the board or asserts a privilege to withhold or suppress evidence relevant to a claim, the board may make any just order including denial of the claim, but may not find the person in contempt. If necessary to carry out any of its powers and duties, the board may petition the district court for an appropriate order, but the court may not find a person in contempt for refusal to submit to a mental or physical examination.

**History:** 1974 c 463 s 12

**299B.13 DEPARTMENT OF CORRECTIONS; RESTITUTION.**

The department of corrections may, as a means of assisting in the rehabilitation of persons committed to their care, establish programs and procedures whereby such persons may contribute toward restitution of those persons injured as a consequence of their criminal acts.

**History:** 1974 c 463 s 13

**299B.14 USE OF RECORD OF CLAIM; EVIDENCE.**

Neither a record of the proceedings on a claim, a decision of the board, nor the fact that an award has been made or denied shall be admissible as evidence in any criminal or civil action against the alleged offender, except an action by the state on its subrogation claim.

**History:** 1974 c 463 s 14; 1979 c 173 s 2

**299B.15 LAW ENFORCEMENT AGENCIES; DUTY TO INFORM VICTIMS OF RIGHT TO FILE CLAIM.**

All law enforcement agencies investigating crimes shall provide forms to each person who may be eligible to file a claim pursuant to sections 299B.01 to 299B.16 and to inform them of their rights hereunder. All law enforcement agencies shall obtain from the board and maintain a supply of all forms necessary for the preparation and presentation of claims.

**History:** 1974 c 463 s 15

**299B.16 FRAUDULENT CLAIMS; PENALTY.**

Any person who knowingly makes a false claim under sections 299B.01 to 299B.16 shall be guilty of a gross misdemeanor.

**History:** 1974 c 463 s 16

**299B.17 LIMITING COMMERCIAL EXPLOITATION OF CRIMES; PAYMENT OF VICTIMS.**

Subdivision 1. For purposes of this section "crime" means an offense which is a felony under the laws of Minnesota.

Subd. 2. A legal entity that contracts with an individual person or the representative or assignee of a person who has been convicted of a crime in this

state, or found not guilty by reason of insanity, regarding (a) the reenactment of the crime, by way of a movie, book, newspaper or magazine article, radio or television presentation, or live or recorded entertainment of any kind, or (b) the expression of the person's thoughts, feelings, opinions or emotions about the crime, shall notify the crime victims reparations board of the existence of the contract and pay over to the crime victims reparations board any moneys owed to that person or his representatives by virtue of the contract. If the crime occurred in this state, the proportion payable is one hundred percent. If the crime occurred in another jurisdiction having a law applicable to the case which is substantially similar to this section, the proportion payable is zero and this section does not apply. In all other cases, the proportion payable is that which fairly can be allocated to commerce in this state. This section does not apply to crimes occurring outside the United States. The board shall deposit the moneys pursuant to subdivision 7 and assign the amount received in each case for the benefit of any victim of crimes committed by the person. The moneys shall be paid by the board to any victim or the legal representative of a victim if (1) the person is convicted of the crime or found not guilty by reason of insanity, and (2) the claimant, within five years of the date of payment to the board in the case, brings a civil action in a court of competent jurisdiction and recovers a money judgment for damages against the person or his representatives. Notwithstanding any provision of law for the timely bringing of an action, an action may be brought pursuant to this section within a five year period which begins to run on the date payment is made to the board in a case; provided that once the person has been discharged from his sentence by court order or upon expiration of sentence, this section shall not apply.

Subd. 3. When the board receives a payment pursuant to this section, it shall attempt to notify any known victims of the crime and shall publish a notice of that fact in a newspaper having general circulation in the county where the crime was committed. The expenses of notification shall be paid from the amount received for that case.

Subd. 4. When the board has made payments to or on behalf of a crime victim pursuant to sections 299B.01 to 299B.16, to the extent of payment made, it is subrogated to any claim or judgment of the victim or his representative against the offender.

Subd. 5. Upon a showing by that person convicted of a crime or found not guilty by reason of insanity, or his representative, that five years have elapsed from the date of payment to the board in the case, and further that no actions are pending against him pursuant to this section, the board shall immediately pay over to him any moneys in the account related to the case.

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

Subd. 7. All moneys received by the board pursuant to this section shall be deposited in the state treasury, credited to a special account, and are appropriated to the board for the purposes of this section. Money in the special account may be invested pursuant to section 11A.25. When so invested, any interest or profit shall accrue to, and any loss be borne by, the special account. The board shall allocate money in the special account to each case pursuant to this section.

Subd. 8. Any action taken, whether by way of execution of a power of attorney, creation of corporate or trust entities or otherwise, to defeat the purpose of this section shall be null and void as against the public policy of this state.

**History:** 1979 c 234 s 1; 1980 c 607 art 4 s 46