

CHAPTER 611A

CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES

611A.04	Order of restitution.	611A.55	Crime victims reparations board.
611A.045	Procedure for issuing order of restitution.	611A.56	Powers and duties of the board.
611A.221	Additional power.	611A.70	Citation.
611A.24	Prevention of sexual exploitation by psychotherapists.	611A.71	Council; establishment.
611A.34	Advisory council.	611A.72	Citation.
611A.52	Definitions.	611A.73	Definitions.
611A.53	Eligibility for reparations.	611A.74	Crime victim ombudsman; creation.
611A.54	Amount of reparations.	611A.75	Report to legislature.

611A.04 ORDER OF RESTITUTION.

[For text of subds 1 and 2, see M.S.1984]

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 in the same manner as a judgment in a civil action. An order of restitution shall be docketed as a civil judgment by the clerk of the district court in the county in which the order of restitution was entered. 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.

History: 1985 c 110 s 1

611A.045 PROCEDURE FOR ISSUING ORDER OF RESTITUTION.

Subdivision 1. **Criteria.** The court, in determining whether to order restitution and the amount of the restitution, shall consider the amount of the economic loss sustained by the victim as a result of the offense.

Subd. 2. **Presentence investigation.** The court may order that the presentence investigation report made pursuant to section 609.115, subdivision 1, contain information pertaining to the factors set forth in subdivision 1.

Subd. 3. **Dispute; evidentiary burden.** 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 the loss sustained by a victim as a result of the offense and the appropriateness of a particular type of restitution is on the prosecution.

History: 1985 c 110 s 2

611A.221 ADDITIONAL POWER.

The department of correction's victim service unit is authorized to accept and expend funds received from other state agencies, other units of governments and other agencies, that result from the distribution of resource materials.

History: 1Sp1985 c 4 s 22

611A.24 PREVENTION OF SEXUAL EXPLOITATION BY PSYCHOTHERAPISTS.

The commissioner of corrections shall establish, as part of the program for victims of sexual assault, a program of public and professional education concerning

sexual exploitation by psychotherapists. To the extent of available appropriations, the commissioner shall, in consultation with the task force established in Laws 1984, chapter 631:

- (1) develop policy and procedure models and materials for use by professionals, professional organizations, educational institutions, and employers and supervisors;
- (2) develop education and training programs for professionals, professional organizations, educational institutions, and employers and supervisors;
- (3) collect and distribute information on the problem of sexual exploitation by psychotherapists;
- (4) develop manuals, brochures, and other informational materials for distribution to the public, professionals and professional organizations, educational institutions, and employers and supervisors;
- (5) educate participants in the administrative, civil, and criminal complaint systems on the laws concerning sexual exploitation, the rights of victims, and other matters;
- (6) provide information and referral services, and facilitate advocacy, crisis intervention, and other assistance to victims of sexual exploitation through existing programs, including the state sexual assault network;
- (7) develop a statement of the rights of psychotherapy clients, relating to sexual exploitation, which could be included in existing bills of rights;
- (8) promote public awareness of the problem of sexual exploitation and the rights of psychotherapy clients; and
- (9) provide recommendations to the legislature concerning the need for services or legislation.

At the request of the legislature, the commissioner shall report on the problem of sexual exploitation by psychotherapists and the activities of the department under this section.

History: 1985 c 262 s 2

NOTE: This section is repealed by Laws 1985, chapter 262, section 7, effective July 1, 1987.

611A.34 ADVISORY COUNCIL.

Subdivision 1. **Creation.** Within 60 days after the effective date of sections 611A.31 to 611A.36, the commissioner shall appoint a nine member advisory council to advise him on the implementation of sections 611A.31 to 611A.36. The provisions of section 15.059 shall govern the terms and removal of members of the advisory council. Notwithstanding section 15.059, the council shall not expire. Council members shall not receive per diem, but shall receive expenses in the same manner and amount as state employees.

[For text of subds 2 and 3, see M.S.1984]

History: 1Sp1985 c 9 art 2 s 97

611A.52 DEFINITIONS.

For the purposes of sections 611A.51 to 611A.67 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 611A.55.

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

(4) "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) 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 611A.51 to 611A.67;

(c) social security, medicare, and medicaid;

(d) state required temporary nonoccupational 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, or

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

(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: *1Sp1985 c 4 s 10*

611A.53 ELIGIBILITY FOR REPARATIONS.

[For text of subd 1, see M.S.1984]

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 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 within that period, then the claim can be made within one year of the time when a claim could have been made; 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.

History: *1Sp1985 c 4 s 11*

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;

(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.

History: *1Sp1985 c 4 s 12*

611A.55 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 five members appointed by the commissioner of public safety and selected from among the membership of the crime victim and witness advisory council created in section 611A.71. One of the members shall be designated as chairperson by the commissioner of public safety and serve as such at his pleasure. At least one member shall be a medical or osteopathic physician licensed to practice in this state, and at least one member shall be a victim, as defined in section 611A.01.

Subd. 2. The membership terms, compensation, removal of members, and filling of vacancies on the board shall be as provided in section 15.0575. Members of the board who are also members of the crime victim and witness advisory council created in section 611A.71 shall not be compensated while performing duties for the advisory council.

[For text of subd 3, see M.S.1984]

History: *1Sp1985 c 4 s 13,14*

611A.56 POWERS AND DUTIES OF THE BOARD.

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 rules to implement 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 public safety, 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.

[For text of subd 2, see M.S.1984]

History: *1Sp1985 c 4 s 15*

611A.70 CITATION.

This section and section 611A.71 may be cited as the "Minnesota crime victim and witness advisory council act."

History: *1Sp1985 c 4 s 16*

611A.71 COUNCIL; ESTABLISHMENT.

Subdivision 1. **Creation.** The Minnesota crime victim and witness advisory council is established and shall consist of 12 members.

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;

(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.

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.

Subd. 3. **Terms of office.** Each appointed member must be appointed for a four-year term coterminous with the governor's term of office, and shall continue to serve during that time as long as the member occupies the position which made that member eligible for the appointment. Each member shall continue in office until that member's successor is duly appointed. Members are eligible for reappointment and appointment may be made to fill an unexpired term. The members of the council shall elect any additional officers necessary for the efficient discharge of their duties.

Subd. 4. **Compensation.** Each member of the council shall serve without compensation.

Subd. 5. **Duties.** The council shall:

(1) review on a regular basis the treatment of victims by the criminal justice system and the need and availability of services to victims;

(2) advise the agency designated by the governor to apply for victim assistance program grants under chapter 14 of Public Law Number 98-473, in the coordination and allocation of federal funds for crime victims assistance programs;

(3) advocate necessary changes and monitor victim-related legislation;

(4) provide information, training, and technical assistance to state and local agencies and groups involved in victim and witness assistance;

(5) serve as a clearinghouse for information concerning victim and witness programs;

(6) develop guidelines for the implementation of victim and witness assistance programs and aid in the creation and development of programs;

(7) coordinate the development and implementation of policies and guidelines for the treatment of victims and witnesses, and the delivery of services to them; and

(8) develop ongoing public awareness efforts and programs to assist victims.

Subd. 6. **Executive director.** The commissioner of public safety shall, with the advice of the advisory council, select and employ an executive director for the

council who shall serve in the unclassified service at the pleasure of the commissioner and shall aid the council in the performance of its duties under subdivision 5 and supervise the administration of the following:

- (1) the crime victim ombudsman; and
- (2) the crime victims reparations act.

History: *1Sp1985 c 4 s 17*

611A.72 CITATION.

Sections 611A.72 to 611A.74 may be cited as the "crime victim ombudsman act."

History: *1Sp1985 c 4 s 18*

611A.73 DEFINITIONS.

Subdivision 1. **Definitions.** The definitions in this section apply to this section and section 611A.74.

Subd. 2. **Appropriate authority.** "Appropriate authority" includes anyone who is the subject of a complaint to the crime victim ombudsman or anyone within the agency who is in a supervisory position with regard to one who is the subject of a complaint.

Subd. 3. **Elements of the criminal justice system.** "Elements of the criminal justice system" refers to county attorneys and members of their staff; peace officers; probation and corrections officers; state officials involved in the criminal justice system; and does not include the judiciary.

Subd. 4. **Victim.** "Victim" refers to anyone or the next of kin of anyone who has been or purports to have been subjected to a criminal act, whether a felony, a gross misdemeanor, or misdemeanor.

Subd. 5. **Victim assistance program.** "Victim assistance program" refers to any entity which provides or claims to provide services and assistance to victims on a regular, ongoing basis.

History: *1Sp1985 c 4 s 19*

611A.74 CRIME VICTIM OMBUDSMAN; CREATION.

Subdivision 1. **Creation.** The office of crime victim ombudsman for Minnesota is created. The ombudsman shall be appointed by the commissioner of public safety with the advice of the advisory council, and shall serve in the unclassified service at the pleasure of the commissioner. The ombudsman is directly accountable to the executive director of the crime victim and witness advisory council and, through the executive director, accountable to the commissioner of public safety.

Subd. 2. **Duties.** The crime victim ombudsman may investigate complaints concerning possible violation of the rights of crime victims or witnesses provided under this chapter, the delivery of victim services by victim assistance programs, the administration of the crime victims reparations act, and other complaints of mistreatment by elements of the criminal justice system or victim assistance programs. The ombudsman shall act as a liaison, when the ombudsman deems necessary, between agencies, either in the criminal justice system or in victim assistance programs, and victims and witnesses. The ombudsman must be made available through the use of a toll free telephone number and shall answer questions concerning the criminal justice system and victim services put to the ombudsman by victims and witnesses in accordance with the ombudsman's knowledge of the facts or

law, unless the information is otherwise restricted. The ombudsman shall establish a procedure for referral to the crime victim crisis centers, the crime victims reparations board, and other victim assistance programs when services are requested by crime victims or deemed necessary by the ombudsman.

Subd. 3. **Powers.** The crime victim ombudsman has those powers necessary to carry out the duties set out in subdivision 1, including:

(a) The ombudsman may investigate, upon a complaint or upon his or her own initiative, any action of an element of the criminal justice system or a victim assistance program included in subdivision 2.

(b) The ombudsman may request and shall be given access to information pertaining to a complaint, unless the information is otherwise restricted.

(c) After completing investigation of a complaint, the ombudsman shall inform in writing the complainant, the investigated person or entity, and other appropriate authorities, including the attorney general, of the action taken.

Subd. 4. **No compelled testimony.** Neither the ombudsman nor any member of the ombudsman's staff may be compelled to testify in any court with respect to matters involving the exercise of official duties except as may be necessary to enforce the provisions of this section.

Subd. 5. **Recommendations.** (a) If, after duly considering a complaint and whatever material he or she deems pertinent, the ombudsman is of the opinion that the complaint is valid, the ombudsman may recommend action to the appropriate authority.

(b) If the ombudsman makes a recommendation to an appropriate authority for action, the authority shall, within a reasonable time period, inform the ombudsman about the action taken or the reasons for not complying with the recommendation.

History: *1Sp1985 c 4 s 20*

611A.75 REPORT TO LEGISLATURE.

The commissioner of public safety shall report to the legislature by February 1, 1987, and biennially thereafter, on the implementation and administration of Laws 1985, First Special Session chapter 4, sections 10 to 20.

History: *1Sp1985 c 4 s 21*