

CHAPTER 611A

CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES

- 611A.01 Definitions.
- 611A.02 Notification of victim services and victims' rights.
- 611A.03 Plea agreements; notification.
- 611A.031 Victim input regarding pretrial diversion.
- 611A.0315 Victim notification; domestic assault.
- 611A.032 Speedy trial; notice of schedule change.
- 611A.033 Speedy trial; notice of schedule change.
- 611A.034 Separate waiting areas in courthouse.
- 611A.035 Confidentiality of victim's address.
- 611A.036 Prohibition against employer retaliation.
- 611A.037 Presentence investigation; victim impact; notice.
- 611A.038 Right to submit statement at sentencing.
- 611A.04 Order of restitution.
- 611A.045 Procedure for issuing order of restitution.
- 611A.05 Penalties no bar to civil remedies.
- 611A.06 Right to notice of release.
- PROGRAM TO AID VICTIMS OF SEXUAL ATTACKS
- 611A.21 Development of statewide program; definition; services.
- 611A.22 Powers of commissioner.
- 611A.221 Additional power.
- 611A.23 Funding; pilot programs.
- BATTERED WOMEN
- 611A.31 Definitions.
- 611A.32 Pilot programs.
- 611A.33 Duties of commissioner.
- 611A.34 Advisory council.
- 611A.35 Project coordinator.
- 611A.36 Data collection.
- CRIME VICTIM CRISIS CENTER
- 611A.41 Crime victim crisis center.
- 611A.42 Planning.
- 611A.43 Functions.
- 611A.44 Evaluation.
- CRIME VICTIMS REPARATIONS
- 611A.51 Title.
- 611A.52 Definitions.
- 611A.53 Eligibility for reparations.
- 611A.54 Amount of reparations.
- 611A.55 Crime victims reparations board.
- 611A.56 Powers and duties of the board.
- 611A.57 Determination of claims.
- 611A.58 Attorneys fees; limitation for representation before board.
- 611A.60 Reparations; how paid.
- 611A.61 Subrogation.
- 611A.62 Medical privilege.
- 611A.63 Enforcement of board's orders.
- 611A.64 Department of corrections; restitution.
- 611A.65 Use of record of claim; evidence.
- 611A.66 Law enforcement agencies; duty to inform victims of right to file claim.
- 611A.67 Fraudulent claims; penalty.
- 611A.68 Limiting commercial exploitation of crimes; payment of victims.
- MINNESOTA CRIME VICTIM AND WITNESS ADVISORY COUNCIL ACT
- 611A.70 Citation.
- 611A.71 Council; establishment.
- CRIME VICTIM OMBUDSMAN ACT
- 611A.72 Citation.
- 611A.73 Definitions.
- 611A.74 Crime victim ombudsman; creation.
- 611A.75 Report to legislature.

611A.01 DEFINITIONS.

For the purposes of sections 611A.01 to 611A.04 and 611A.06:

(a) "Crime" means conduct that is prohibited by local ordinance and results in bodily harm to an individual; or conduct that is included within the definition of "crime" in section 609.02, subdivision 1, or would be included within that definition but for the fact that (i) the person engaging in the conduct lacked capacity to commit the crime under the laws of this state, or (ii) the act was alleged or found to have been committed by a juvenile;

(b) "Victim" means a natural person who incurs loss or harm as a result of a crime, and for purposes of sections 611A.04 and 611A.045, also includes a corporation that incurs loss or harm as a result of a crime. If the victim is a natural person and is deceased, "victim" means the deceased's surviving spouse or next of kin; and

(c) "Juvenile" has the same meaning as given to the term "child" in section 260.015, subdivision 2.

History: 1983 c 262 art 1 s 1; 1987 c 254 s 10; 1988 c 649 s 1

611A.02 NOTIFICATION OF VICTIM SERVICES AND VICTIMS' RIGHTS.

Subdivision 1. Victim services. The commissioner of corrections, in cooperation with the executive director of the crime victims reparations board, shall develop a plan to provide victims with information concerning victim services in the geographic area where the crime occurred. This information shall include, but need not be limited to, information about available victim crisis centers, programs for victims of sexual assault, victim witness programs, elderly victims projects, victim assistance hotlines, incest abuse programs, and domestic violence shelters and programs.

MINNESOTA STATUTES 1988

The plan shall take into account the fact that some counties currently have informational service systems and victim or witness services or programs.

This plan shall be presented to the appropriate standing committees of the legislature no later than February 1, 1984.

Subd. 2. Victims' rights. (a) The commissioner of public safety, in consultation with the crime victim and witness advisory council, must develop a notice of the rights of crime victims. The notice must include a form for the preparation of a preliminary written victim impact summary. A preliminary victim impact summary is a concise statement of the immediate and expected damage to the victim as a result of the crime. A victim desiring to file a preliminary victim impact summary must file the summary with the investigating officer no more than five days after the victim receives the notice from a peace officer. If a preliminary victim impact statement is filed with the investigating officer, it must be sent to the prosecutor with other investigative materials. If a prosecutor has received a preliminary victim impact summary, the prosecutor must present the summary to the court. This subdivision does not relieve a probation officer of the notice requirements imposed by section 609.115, subdivision 1c.

(b) The notice of the rights of crime victims must be distributed by a peace officer to each victim, as defined in section 611A.01, when the peace officer takes a formal statement from the victim. A peace officer is not obligated to distribute the notice if a victim does not make a formal statement. The notice must inform a victim of:

- (1) the victim's right to request restitution under section 611A.04;
- (2) the victim's right to be notified of any plea negotiations under section 611A.03; and
- (3) the victim's right to be present at sentencing, and to object orally or in writing to a proposed agreement or disposition.

History: 1983 c 262 art 1 s 2; 1988 c 649 s 2

611A.03 PLEA AGREEMENTS; NOTIFICATION.

Subdivision 1. Plea agreements; notification of victim. Prior to the entry of the factual basis for a plea pursuant to a plea agreement recommendation, a prosecuting attorney shall make a reasonable and good faith effort to inform the victim of:

- (a) The contents of the plea agreement recommendation; and
- (b) The right to be present at the sentencing hearing and to express in writing any objection to the agreement or to the proposed disposition. If the victim is not present when the court considers the recommendation, but has communicated objections to the prosecuting attorney, the prosecuting attorney shall make these objections known to the court.

Subd. 2. Notification duties. A prosecuting attorney satisfies the requirements of subdivision 1 by notifying:

- (a) The victim's legal guardian or guardian ad litem; or
- (b) The three victims the prosecuting attorney believes to have suffered the most, if there are more than three victims of the offense.

Subd. 3. [Repealed, 1988 c 649 s 5]

History: 1983 c 262 art 1 s 3; 1986 c 351 s 18; 1986 c 444; 1Sp1986 c 3 art 1 s 76

611A.031 VICTIM INPUT REGARDING PRETRIAL DIVERSION.

A prosecutor shall make every reasonable effort to notify and seek input from the victim prior to referring a person into a pretrial diversion program in lieu of prosecution for a violation of sections 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.224, 609.24, 609.245, 609.25, 609.255, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561, 609.582, subdivision 1, and 609.687.

History: 1986 c 463 s 6; 1987 c 331 s 10

611A.0315 VICTIM NOTIFICATION; DOMESTIC ASSAULT.

Subdivision 1. **Notice of decision not to prosecute.** A prosecutor shall make every reasonable effort to notify a domestic assault victim that the prosecutor has decided to decline prosecution of the case or to dismiss the criminal charges filed against the defendant. Efforts to notify the victim should include, in order of priority: (1) contacting the victim or a person designated by the victim by telephone; and (2) contacting the victim by mail. If a suspect is still in custody, the notification attempt shall be made before the suspect is released from custody.

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

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

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

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

History: 1988 c 638 s 4

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.

History: 1986 c 463 s 7

611A.033 SPEEDY TRIAL; NOTICE OF SCHEDULE CHANGE.

(a) A victim has the right to request that the prosecutor make a demand under rule 11.10 of the Rules of Criminal Procedure that the trial be commenced within 60 days of the demand. The prosecutor shall make reasonable efforts to comply with the victim's request.

(b) 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.

History: 1986 c 435 s 12

611A.034 SEPARATE WAITING AREAS IN COURTHOUSE.

The court shall provide a waiting area for victims during court proceedings which is separate from the waiting area used by the defendant, the defendant's relatives, and defense witnesses, if such a waiting area is available and its use is practical. If a separate waiting area for victims is not available or practical, the court shall provide other safeguards to minimize the victim's contact with the defendant, the defendant's relatives, and defense witnesses during court proceedings.

History: 1986 c 435 s 13

611A.035 CONFIDENTIALITY OF VICTIM'S ADDRESS.

No victim or witness providing testimony in court proceedings may be compelled to state a home or employment address on the record in open court unless the court finds that the testimony would be relevant evidence.

History: 1986 c 444; 1986 c 463 s 8; 1987 c 331 s 11

611A.036 PROHIBITION AGAINST EMPLOYER RETALIATION.

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.

History: 1986 c 463 s 9

611A.037 PRESENTENCE INVESTIGATION; VICTIM IMPACT; NOTICE.

Subdivision 1. Victim impact statement. A presentence investigation report prepared under section 609.115 shall include the following information relating to victims:

(a) a summary of the damages or harm and any other problems generated by the criminal occurrence;

(b) a concise statement of what disposition the victim deems appropriate for the defendant or juvenile court respondent, including reasons given, if any, by the victim in support of the victim's opinion; and

(c) an attachment to the report, consisting of the victim's written objections, if any, to the proposed disposition if the victim provides the officer conducting the presentence investigation with this written material within a reasonable time prior to the disposition.

Subd. 2. Notice to victim. The officer conducting a presentence or predispositional investigation shall make reasonable and good faith efforts to contact the victim of that crime and to provide that victim with the following information: (i) the charge or juvenile court petition to which the defendant has been convicted or pleaded guilty, or the juvenile respondent has admitted in court or has been found to have committed by the juvenile court, and of any plea agreement between the prosecution and the defense counsel; (ii) the victim's right to request restitution pursuant to section 611A.04; (iii) the time and place of the sentencing or juvenile court disposition and the victim's right to be present; and (iv) the victim's right to object in writing to the court, prior to the time of sentencing or juvenile court disposition, to the proposed sentence or juvenile dispositional alternative, or to the terms of the proposed plea agreement. To assist the victim in making a recommendation under clause (iv), the officer shall provide the victim with information about the court's options for sentencing and other dispositions. Failure of the officer to comply with this subdivision does not give any rights or grounds for postconviction or postjuvenile disposition relief to the defendant or juvenile court respondent, nor does it entitle a defendant or a juvenile court respondent to withdraw a plea of guilty.

History: 1987 c 331 s 12

611A.038 RIGHT TO SUBMIT STATEMENT AT SENTENCING.

Subdivision 1. Impact statement. A victim has the right to submit an impact statement, either orally or in writing, to the court at the time of sentencing or disposition hearing. If the victim requests, the prosecutor must orally present the statement to the court.

Statements may include the following, subject to reasonable limitations as to time and length:

- (1) a summary of the harm or trauma suffered by the victim as a result of the crime;
- (2) a summary of the economic loss or damage suffered by the victim as a result of the crime; and
- (3) a victim's reaction to the proposed sentence or disposition.

History: 1988 c 649 s 3

611A.04 ORDER OF RESTITUTION.

Subdivision 1. Request; decision. (a) A victim of a crime has the right to request that restitution be considered as part of the disposition of a criminal charge or juvenile delinquency proceeding against the offender. The request for restitution shall be made

MINNESOTA STATUTES 1988

10265

CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES 611A.045

by the victim in writing in affidavit form, describing the items or elements of loss and itemizing the total dollar amounts of restitution claimed, and the reasons justifying these amounts, if the request is for monetary or property restitution. In order to be considered by the court, the request must be received by the court administrator of the appropriate court at least three business days before the sentencing or dispositional hearing. The court administrator shall provide copies of this request to the prosecutor and the offender at least 24 hours before the sentencing or dispositional hearing.

(b) The court may amend or issue an order of restitution after the sentencing or dispositional hearing if:

- (1) the offender is on probation or supervised release;
- (2) a request for restitution is filed by the victim or prosecutor in affidavit form as required under paragraph (a); and
- (3) the true extent of the victim's loss was not known at the time of the sentencing or dispositional hearing.

If the court holds a hearing on the restitution request, the court must notify the offender, the offender's attorney, the victim, and the prosecutor at least five business days before the hearing. The court's restitution decision is governed by this section and section 611A.045.

(c) The court shall grant or deny restitution and shall state on the record its reasons for its decision on restitution if a request for restitution has been made.

Subd. 1a. Crime board request. The crime victims reparations board may request restitution on behalf of a victim by filing a copy of a claim for reparations submitted under sections 611A.52 to 611A.67, along with orders of the board, if any, which detail any amounts paid by the board to the victim. The filing of a claim for reparations with the court administrator shall also serve as a request for restitution by the victim. The restitution requested by the board may be considered to be both on its own behalf and on behalf of the victim. If the board has not paid reparations to the victim, restitution may be made directly to the victim. If the board has paid reparations to the victim, the court shall order restitution payments to be made directly to the board.

Subd. 2. Procedures. The offender shall make restitution payments to the court administrator of the county, municipal, or district court of the county in which the restitution is to be paid. The court administrator shall keep records of the amount of restitution ordered in each case, any change made to the restitution order, and the amount of restitution actually paid by the offender. The court administrator shall forward the data collected to the state court administrator who shall compile the data and make it available to the supreme court and the legislature upon request.

Subd. 3. Effect of order for restitution. An order of restitution may be enforced by any person named in the order to receive the restitution in the same manner as a judgment in a civil action. An order of restitution shall be docketed as a civil judgment by the court administrator 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: 1983 c 262 art 1 s 4,6; 1985 c 110 s 1; 1986 c 463 s 10; 1Sp1986 c 3 art 1 s 82; 1987 c 244 s 2; 1987 c 254 s 11

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.05 PENALTIES NO BAR TO CIVIL REMEDIES.

The provision in any law for a penalty or forfeiture for its violation shall not be construed to deprive an injured person of the right to recover from the offender damages sustained by reason of the violation of such law.

History: 1941 c 492 s 23; 1983 c 262 art 1 s 6

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, 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. A written request for notice submitted under this section is private data on individuals as defined in section 13.02, subdivision 12. The commissioner or other custodial authority complies with this section upon mailing the notice of impending release to the victim at the address which the victim has most recently provided to the commissioner or authority in writing. All identifying information regarding the victim, including the victim's request and the notice provided by the commissioner or custodial authority, is classified as private data on individuals as defined in section 13.02, subdivision 12, and is accessible only to the victim.

History: 1983 c 262 art 1 s 5; 1986 c 444; 1986 c 445 s 4; 1986 c 463 s 11; 1987 c 224 s 3; 1988 c 649 s 4

PROGRAM TO AID VICTIMS OF SEXUAL ATTACKS

611A.21 DEVELOPMENT OF STATEWIDE PROGRAM; DEFINITION; SERVICES.

Subdivision 1. The commissioner of corrections shall develop a community based, statewide program to aid victims of reported sexual attacks.

Subd. 2. As used in sections 611A.21 to 611A.23, a "sexual attack" means any nonconsensual act of rape, sodomy, or indecent liberties.

Subd. 3. The program developed by the commissioner of corrections may include, but not be limited to, provision of the following services:

(a) Voluntary counseling by trained personnel to begin as soon as possible after a sexual attack is reported. The counselor shall be of the same sex as the victim and shall, if requested, accompany the victim to the hospital and to other proceedings concerning the alleged attack, including police questioning, police investigation, and court proceedings. The counselor shall also inform the victim of hospital procedures, police and court procedures, the possibility of contracting venereal disease, the possibility of pregnancy, expected emotional reactions and any other relevant information; and shall make appropriate referrals for any assistance desired by the victim.

(b) Payment of all costs of any medical examinations and medical treatment which the victim may require as a result of the sexual attack if the victim is not otherwise reimbursed for these expenses or is ineligible to receive compensation under any other law of this state or of the United States.

History: 1974 c 578 s 1; 1983 c 262 art 1 s 6

MINNESOTA STATUTES 1988

10267

CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES 611A.32

611A.22 POWERS OF COMMISSIONER.

In addition to developing the statewide program, the commissioner of corrections may:

(a) Assist and encourage county attorneys to assign prosecuting attorneys trained in sensitivity and understanding of victims of sexual attacks;

(b) Assist the peace officers training board and municipal police forces to develop programs to provide peace officers training in sensitivity and understanding of victims of sexual attacks; and encourage the assignment of trained peace officers of the same sex as the victim to conduct all necessary questioning of the victim;

(c) Encourage hospital administrators to place a high priority on the expeditious treatment of victims of sexual attacks; and to retain personnel trained in sensitivity and understanding of victims of sexual attacks.

History: 1974 c 578 s 2; 1983 c 262 art 1 s 6

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.23 FUNDING; PILOT PROGRAMS.

The commissioner of corrections shall seek funding from the governor's commission on crime prevention and control at the earliest possible date for purposes of sections 611A.21 to 611A.23. In addition, the commissioner of corrections shall seek and utilize all other available funding resources to establish pilot community programs to aid victims of sexual attacks before December 1, 1974.

History: 1974 c 578 s 3; 1983 c 262 art 1 s 6

611A.24 [Repealed, 1985 c 262 s 7]

BATTERED WOMEN

611A.31 DEFINITIONS.

Subdivision 1. For the purposes of sections 611A.31 to 611A.36, the following terms have the meanings given.

Subd. 2. "Battered woman" means a woman who is being or has been assaulted by her spouse, other male relative, or by a male with whom she is residing or has resided in the past.

Subd. 3. "Emergency shelter services" include, but are not limited to, secure crisis shelters for battered women and housing networks for battered women.

Subd. 4. "Support services" include, but are not limited to, advocacy services, legal services, counseling services, transportation services, child care services, and 24 hour information and referral services.

Subd. 5. "Commissioner" means the commissioner of the department of corrections or a designee.

History: 1977 c 428 s 1; 1983 c 262 art 1 s 6; 1986 c 444

611A.32 PILOT PROGRAMS.

Subdivision 1. **Programs designated.** The commissioner shall designate four or more pilot programs to provide emergency shelter services and support services to battered women and shall award grants to the pilot programs. At least two pilot programs shall be designated in the metropolitan area, composed of Hennepin, Ramsey, Anoka, Dakota, Scott, Washington and Carver counties. At least one pilot program

shall be designated in a city located outside of the metropolitan area, and at least one pilot program shall be designated in a location accessible to a predominately rural population.

Subd. 1a. Program for American Indian women. The commissioner shall establish at least one program under this section to provide emergency shelter services and support services to battered American Indian women. The commissioner shall grant continuing operating expenses to the program established under this subdivision in the same manner as operating expenses are granted to programs established under subdivision 1.

Subd. 2. Applications. Any public or private nonprofit agency may apply to the commissioner for designation as a pilot program to provide emergency shelter services and support services to battered women. The application shall be submitted in a form approved by the commissioner by rule, and shall include:

(a) a proposal for the provision of emergency shelter services and support services for battered women;

(b) a proposed budget;

(c) evidence of the integration of the uniform method of data collection and program evaluation established by the director pursuant to section 611A.33 into the proposed program;

(d) evidence of the participation of the local law enforcement agencies and courts, county welfare agencies, local boards or departments of health, and other interested agencies or groups in the development of the application; and

(e) any other content the commissioner may, by rule, require.

Subd. 3. Duties of grantees. Every public or private nonprofit agency which receives a grant to provide emergency shelter services and support services to battered women shall comply with all rules of the commissioner related to the administration of the pilot programs.

Subd. 4. Educational programs. In addition to designating four pilot programs to provide emergency shelter services and support services, the commissioner shall award grants for the development and implementation of education programs designed to promote public and professional awareness of the problems of battered women. Any public or private nonprofit agency may apply to the commissioner for an education grant. The application shall be submitted in a form approved by the commissioner by rule. In addition, education grant moneys may be used by the commissioner to produce educational and promotional materials to encourage the development and utilization of emergency shelter services. Every public or private nonprofit agency which receives an education grant shall comply with all rules of the commissioner related to the administration of education programs.

Subd. 5. Classification of data collected by grantees. Personal history information and other information collected, used or maintained by a grantee from which the identity of any battered woman may be determined is private data on individuals, as defined in section 13.02, subdivision 12, and the grantee shall maintain the data in accordance with the provisions of chapter 13.

History: 1977 c 428 s 2; 1978 c 732 s 1-3; 1981 c 311 s 39; 1Sp1981 c 4 art 1 s 14; 1982 c 545 s 24; 1983 c 262 art 1 s 6; 1988 c 689 art 2 s 237

611A.33 DUTIES OF COMMISSIONER.

The commissioner shall:

(a) Review applications for designation as a pilot program, and designate four or more pilot programs pursuant to section 611A.32, subdivision 1;

(b) Review applications from and award grants to public or private nonprofit agencies which submit proposals to develop and implement education programs pursuant to section 611A.32, subdivision 4;

(c) Appoint the members of the advisory task force created under section 611A.34, and provide staff and other administrative services to the advisory task force;

MINNESOTA STATUTES 1988

10269

CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES 611A.36

(d) Appoint a project coordinator to perform the duties set forth in section 611A.35;

(e) Design and implement a uniform method of collecting and evaluating data on battered women and of evaluating the programs funded under section 611A.32;

(f) Provide technical aid to applicants in the design and implementation of the programs funded under section 611A.32;

(g) Promulgate all rules necessary to implement the provisions of sections 611A.31 to 611A.36 and 256D.05, subdivision 3, including emergency rules; and

(h) Report to the legislature on January 1, 1978, January 1, 1979, and November 15, 1979, on the programs funded under section 611A.32 and report to the legislature by January 1, 1979 on the feasibility of creating similar programs for men.

History: 1977 c 428 s 3; 1978 c 732 s 4; 1983 c 262 art 1 s 6

611A.34 ADVISORY COUNCIL.

Subdivision 1. **Creation.** Within 60 days after June 3, 1977, the commissioner shall appoint a nine member advisory council to advise the commissioner on the implementation of sections 611A.31 to 611A.36. The provisions of section 15.059 shall govern the terms, removal of members, and expiration 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.

Subd. 2. **Membership.** Persons appointed shall be knowledgeable in the fields of health, law enforcement, social services or the law. Five members of the advisory council shall be representatives of community or governmental organizations which provide services to battered women, and four members of the advisory council shall be public members.

Subd. 3. **Duties.** The advisory council shall:

(a) recommend to the commissioner the names of five applicants for the position of project coordinator;

(b) advise the commissioner on the rules promulgated pursuant to section 611A.33;

(c) review and comment on applications received by the commissioner for designation as a pilot program and applications for education grants; and

(d) advise the project coordinator in the performance of duties in the administration and coordination of the programs funded under section 611A.32.

History: 1977 c 428 s 4; 1983 c 260 s 50; 1983 c 262 art 1 s 6; 1984 c 655 art 1 s 36,37; 1Sp1985 c 9 art 2 s 97; 1986 c 444; 1988 c 629 s 60

611A.35 PROJECT COORDINATOR.

The commissioner shall appoint a project coordinator. In appointing the project coordinator the commissioner shall give due consideration to the list of applicants submitted to the commissioner by the advisory task force pursuant to section 611A.34, subdivision 3, clause (a). The project coordinator shall administer the funds appropriated for sections 611A.31 to 611A.36 and 256D.05, subdivision 3, coordinate the programs funded under section 611A.32, and perform other duties as the commissioner may assign. The project coordinator shall serve at the pleasure of the commissioner in the unclassified service.

History: 1977 c 428 s 5; 1983 c 262 art 1 s 6; 1986 c 444

611A.36 DATA COLLECTION.

Subdivision 1. **Form prescribed.** The commissioner shall, by rule, prescribe a uniform form and method for the collection of data on battered women. The method and form of data collection shall be designed to document the incidence of assault on women by their spouses, male relatives or other males with whom they are residing or have resided in the past. All data collected by the commissioner pursuant to this section shall be summary data within the meaning of section 13.02, subdivision 19.

MINNESOTA STATUTES 1988

611A.36 CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES

10270

Subd. 2. **Mandatory data collection.** Every local law enforcement agency shall collect data related to battered women in the form required by the commissioner. The data shall be collected and transmitted to the commissioner at such times as the commissioner shall, by rule, require.

Subd. 3. **Immunity from liability.** Any person participating in good faith and exercising due care in the collection and transmission of data pursuant to this section shall have immunity from any liability, civil or criminal, that otherwise might result by reason of the person's action.

History: 1977 c 428 s 6; 1978 c 732 s 5,6; 1981 c 311 s 39; 1982 c 545 s 24; 1983 c 262 art 1 s 6; 1984 c 654 art 5 s 17; 1986 c 444

CRIME VICTIM CRISIS CENTER

611A.41 CRIME VICTIM CRISIS CENTER.

Subdivision 1. For the purposes of sections 611A.41 to 611A.41, "center" means a crime victim crisis center providing services to victims of crime.

Subd. 2. The commissioner of corrections, not later than January 1, 1978, shall establish at least two operational centers. The commissioner of corrections may contract with a public or private agency for the purposes of planning, implementing and evaluating the centers established herein.

History: 1977 c 314 s 1; 1983 c 262 art 1 s 6

611A.42 PLANNING.

The commissioner of corrections, while developing the center plan as provided in section 611A.41, shall evaluate and determine factors relating to the procedural and substantive needs of the centers.

History: 1977 c 314 s 2; 1983 c 262 art 1 s 6

611A.43 FUNCTIONS.

The centers shall:

- (a) Provide direct crisis intervention to crime victims;
- (b) Provide transportation for crime victims to assist them in obtaining necessary emergency services;
- (c) Investigate the availability of insurance or other financial resources available to the crime victims;
- (d) Refer crime victims to public or private agencies providing existing needed services;
- (e) Encourage the development of services which are not already being provided by existing agencies;
- (f) Coordinate the services which are already being provided by various agencies;
- (g) Facilitate the general education of crime victims about the criminal justice process;
- (h) Educate the public as to program availability;
- (i) Encourage educational programs which will serve to reduce victimization and which will diminish the extent of trauma where victimization occurs;
- (j) Other appropriate services.

History: 1977 c 314 s 3; 1983 c 262 art 1 s 6

611A.44 EVALUATION.

Within three years of May 28, 1977, the commissioner of corrections shall evaluate the operation of the centers. This evaluation shall determine the centers impact in assisting crime victims, its impact on the criminal justice system, the nature of commu-

MINNESOTA STATUTES 1988

10271

CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES 611A.52

nity attitudes generated by the centers, the necessity for maintaining the two existing centers, the desirability of establishing additional centers and propose alternative means to accomplish the purposes of sections 611A.41 to 611A.44 in all areas of the state.

History: 1977 c 314 s 4; 1983 c 262 art 1 s 6

CRIME VICTIMS REPARATIONS

611A.51 TITLE.

Sections 611A.51 to 611A.67 shall be known as the Minnesota crime victims reparations act.

History: 1974 c 463 s 1; 1983 c 262 art 1 s 6

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.

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

Subd. 3. **Board.** "Board" means the crime victims reparations board established by section 611A.55.

Subd. 4. **Claimant.** "Claimant" means a person entitled to apply for reparations pursuant to sections 611A.51 to 611A.67.

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 the victim, from:

- (1) the offender;
- (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;
- (3) social security, medicare, and medicaid;
- (4) state required temporary nonoccupational disability insurance;
- (5) workers' compensation;
- (6) wage continuation programs of any employer;
- (7) proceeds of a contract of insurance payable to the victim for economic loss sustained because of the crime;
- (8) a contract providing prepaid hospital and other health care services, or benefits for disability; or
- (9) any private source as a voluntary donation or gift.

The term does not include a life insurance contract.

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

- (1) occurs or is attempted anywhere within the geographical boundaries of this state, including Indian reservations and other trust lands;
- (2) poses a substantial threat of personal injury or death; and
- (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 vehicle, as defined in section 169.01, subdivision 2, an aircraft or watercraft unless:

- (1) the conduct was intended to cause personal injury or death; or
- (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
- (3) the claim arises out of a violation of section 609.21.

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

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:

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

(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;

(3) loss of income greater than \$50 that the victim would have earned had the victim not been injured;

(4) reasonable expenses incurred for substitute child care or household services to replace those the victim would have performed had the victim 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 9545.0510 to 9545.0670, or exempted from licensing requirements pursuant to section 245A.03. 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; and

(5) reasonable expenses actually incurred to return a child who was a victim of a crime under section 609.25 or 609.26 to the child's parents or lawful custodian. These expenses are limited to transportation costs, meals, and lodging from the time the child was located until the child was returned home.

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

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

(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;

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

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

MINNESOTA STATUTES 1988

10273

CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES 611A.53

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.

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

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

- (1) a crime;
- (2) the good faith effort of any person to prevent a crime; or
- (3) 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; 1983 c 262 art 1 s 6; 1Sp1985 c 4 s 10; 1986 c 444; 1986 c 463 s 12; 1987 c 244 s 3; 1987 c 333 s 22; 1988 c 638 s 5

611A.53 ELIGIBILITY FOR REPARATIONS.

Subdivision 1. Generally. Except as provided in 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:

- (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.

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.

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) the claimant was in the act of committing a crime at the time the injury occurred;
- (e) no claim was filed with the board within one year of victim's injury or death;

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 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) the failure of a law enforcement agency to provide information or assistance to a potential claimant under section 611A.66, (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 (4) the fact that the claimant is not of the age of majority; or

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

The limitations contained in clauses (a) and (e) do not apply to victims of domestic child abuse as defined in section 260.015, subdivision 24. In those cases the one year limitation period commences running with the report of the crime to the police; provided that no claim as a result of loss due to domestic child abuse may be paid when the claimant is 19 years of age or older at the time the claim is filed.

History: 1974 c 463 s 3; 1975 c 246 s 1; 1976 c 2 s 119; 1976 c 193 s 1; 1983 c 262 art 1 s 6; 1Sp1985 c 4 s 11; 1986 c 463 s 13-15; 1987 c 244 s 4

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 the claimant 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.

History: 1974 c 463 s 4; 1977 c 356 s 1; 1983 c 262 art 1 s 6; 1Sp1985 c 4 s 12; 1986 c 444; 1986 c 463 s 16

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 chair by the commissioner of public safety and serve as such at the commissioner's 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.

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

History: 1974 c 463 s 5; 1976 c 134 s 64,65; 1983 c 262 art 1 s 6; 1983 c 305 s 23; 1984 c 531 s 7; 1Sp1985 c 4 s 13,14; 1986 c 444

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.68 or in other law, the board shall:

- (a) provide all claimants with an opportunity for hearing pursuant to chapter 14;
- (b) adopt rules to implement and administer sections 611A.51 to 611A.68, 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 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.

Subd. 2. **Powers.** In addition to exercising any powers specified elsewhere in sections 611A.51 to 611A.68 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 611A.51 to 611A.68;
- (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; 1983 c 262 art 1 s 6; 1Sp1985 c 4 s 15; 1986 c 463 s 17; 1988 c 638 s 6

611A.57 DETERMINATION OF CLAIMS.

Subdivision 1. A claim, when accepted for filing, shall be assigned by the chair to a 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 to the extent that an investigation is necessary.

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 unable to decide the claim upon the basis of the papers and any report of investigation, the board member shall discuss the matter with other members of the board present at a board meeting. After discussion the board shall vote on whether to grant or deny the claim or whether further investigation is necessary. A decision granting or denying the claim shall then be issued by the executive director or the board member to whom the claim was assigned.

Subd. 4. The written decision granting or denying a claim shall be filed with the board, and a copy shall be provided to the claimant.

Subd. 5. The claimant may, within 30 days after receiving the decision of the board, apply for reconsideration before the entire board. Upon request for reconsideration, the board shall reexamine all information filed by the claimant, including any new information the claimant provides, and all information obtained by investigation. The board may also conduct additional examination into the validity of the claim. Upon reconsideration, the board may affirm, modify, or reverse its prior ruling. A claimant denied reparations upon reconsideration is entitled to a contested case hearing within the meaning of chapter 14.

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.

History: 1974 c 463 s 7; 1983 c 262 art 1 s 6; 1986 c 444; 1986 c 463 s 18; 1987 c 244 s 5

611A.58 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; 1983 c 262 art 1 s 6

611A.59 [Repealed, 1987 c 244 s 8]

611A.60 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; 1983 c 262 art 1 s 6

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.

Subd. 3. **Deposit of revenue to fund.** The first \$18,000 collected under this section in each year of the biennium must be deposited into the general fund. Amounts in excess of \$18,000 must be deposited into the crime victim and witness account in the state treasury for the purposes established in section 609.101.

History: 1974 c 463 s 10; 1979 c 173 s 1; 1983 c 262 art 1 s 6; 1986 c 463 s 19; 1987 c 358 s 127

MINNESOTA STATUTES 1988

10277

CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES 611A.68

611A.62 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 611A.51 to 611A.56 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; 1983 c 262 art 1 s 6

611A.63 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; 1983 c 262 art 1 s 6

611A.64 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; 1983 c 262 art 1 s 6

611A.65 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; 1983 c 262 art 1 s 6

611A.66 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 611A.51 to 611A.67 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.

Law enforcement agencies shall assist the board in performing its duties under sections 611A.51 to 611A.67. Law enforcement agencies within ten days after receiving a request from the board shall supply the board with requested reports, notwithstanding any provisions to the contrary in chapter 13, and including reports otherwise maintained as confidential or not open to inspection under section 260.161. All data released to the board retains the data classification that it had in the possession of the law enforcement agency.

History: 1974 c 463 s 15; 1983 c 262 art 1 s 6; 1987 c 244 s 6

611A.67 FRAUDULENT CLAIMS; PENALTY.

Any person who knowingly makes a false claim under sections 611A.51 to 611A.68 is guilty of a gross misdemeanor.

History: 1974 c 463 s 16; 1983 c 262 art 1 s 6; 1988 c 638 s 7

611A.68 LIMITING COMMERCIAL EXPLOITATION OF CRIMES; PAYMENT OF VICTIMS.

Subdivision 1. For purposes of this section, the following terms have the meanings given them in this subdivision.

(a) "Contract" means an agreement regarding, in whole or in part, (1) the reenactment of an offender's crime by way of a movie, book, newspaper or magazine article, radio or television presentation, or live or recorded entertainment of any kind, or (2) the expression of the offender's thoughts, feelings, opinions, or emotions about the crime.

(b) "Crime" means an offense which is a felony under the laws of Minnesota or that would have been a felony if committed in Minnesota, and includes an offense committed or attempted on an Indian reservation or other trust land.

(c) "Offender" means a person convicted of a crime or found not guilty of a crime by reason of insanity.

(d) "Person" includes persons, corporations, partnerships, and other legal entities.

Subd. 2. [Repealed, 1988 c 638 s 17]

Subd. 2a. **Notice and payment of proceeds to board required.** A person that enters into a contract with an offender convicted in this state, and a person that enters into a contract in this state with an offender convicted in this state or elsewhere within the United States, must comply with this section if the person enters into the contract during the ten years after the offender is convicted of a crime or found not guilty by reason of insanity. If an offender is imprisoned or committed to an institution following the conviction or finding of not guilty by reason of insanity, the ten-year period begins on the date of the offender's release. A person subject to this section must notify the crime victims reparations board of the existence of the contract immediately upon its formation, and pay over to the board money owed to the offender or the offender's representatives by virtue of the contract according to the following proportions:

(a) if the crime occurred in this state, the person shall pay to the board 100 percent of the money owed under the contract;

(b) if the crime occurred in another jurisdiction having a law applicable to the contract which is substantially similar to this section, this section does not apply, and the person must not pay to the board any of the money owed under the contract; and

(c) in all other cases, the person shall pay to the board that percentage of money owed under the contract which can fairly be attributed to commerce in this state with respect to the subject matter of the contract.

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 reparations payments to or on behalf of a victim of the offender's crime pursuant to sections 611A.51 to 611A.67, it shall deduct the amount of the reparations award from any payment received under this section by virtue of the offender's contract unless the board has already been reimbursed for the reparations award from another collateral source.

Subd. 4a. **Offender's minor dependent claims.** Immediately after money is deposited with the board under this section, the board may allocate up to ten percent of any money remaining after a deduction is made under subdivision 4 for the benefit of the offender's dependent minor children. The board shall then retain the funds allocated until a claim is made by the dependent minor children or their representative. Upon receiving a claim, the board shall disburse the allocated funds to the dependent minor children if it is shown by clear and convincing evidence that the funds will not be used in a way that benefits the offender.

Subd. 4b. **Claims by victims of offender's crime.** A victim of a crime committed by the offender and the estate of a deceased victim of a crime committed by the offender may submit the following claims for reparations and damages to the board to be paid from money received by virtue of the offender's contract:

(1) claims for reparations to which the victim is entitled under sections 611A.51 to 611A.67 and for which the victim has not yet received an award from the board;

MINNESOTA STATUTES 1988

10279

CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES 611A.71

(2) claims for reparations to which the victim would have been entitled under sections 611A.51 to 611A.67, but for the \$50,000 maximum limit contained in section 611A.54, clause (3); and

(3) claims for other uncompensated damages suffered by the victim as a result of the offender's crime including, but not limited to, damages for pain and suffering.

The victim must file the claim within five years of the date on which the board received payment under this section. The board shall determine the victim's claim in accordance with the procedures contained in sections 611A.57 to 611A.63. An award made by the board under this subdivision must be paid from the money received by virtue of the offender's contract that remains after a deduction or allocation, if any, has been made under subdivision 4 or 4a.

Subd. 4c. Claims by other crime victims. The board may use money received by virtue of an offender's contract for the purpose of paying reparations awarded to victims of other crimes pursuant to sections 611A.51 to 611A.67 under the following circumstances:

(1) money remain after deductions and allocations have been made under subdivisions 4 and 4a, and claims have been paid under subdivision 4b; or

(2) no claim is filed under subdivision 4b within five years of the date on which the board received payment under this section.

None of these moneys may be used for purposes other than the payment of reparations.

Subd. 5. [Repealed, 1988 c 638 s 17]

Subd. 6. Notwithstanding any other provision of this section, the board shall make payments to an offender from the account of amounts received with reference to that offender upon the order of a court of competent jurisdiction after a showing by that offender that the money shall be used for the reasonable costs of defense in the appeal of a criminal conviction or in 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. (a) A person who willfully fails to notify the board of the existence of a contract as required by this section is guilty of a gross misdemeanor.

(b) Except as otherwise provided in paragraph (a), any person or offender who takes any action, 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 is guilty of a misdemeanor.

History: 1979 c 234 s 1; 1980 c 607 art 14 s 46; 1983 c 262 art 1 s 6; 1986 c 444; 1988 c 638 s 8-15

MINNESOTA CRIME VICTIM AND WITNESS ADVISORY COUNCIL ACT

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 15 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;
 - (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.

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. However, members of the council shall receive expenses in the same manner and amount as provided in the commissioner's plan under section 43A.18, subdivision 2; provided that payments for expenses incurred must be paid from the existing appropriation for the administrative portion of the operating budget for the crime victims reparations activity.

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

MINNESOTA STATUTES 1988

10281

CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES 611A.74

(2) the crime victims reparations act.

Subd. 7. **Expiration.** The council expires as provided in section 15.059, subdivision 5.

History: *1Sp1985 c 4 s 17; 1986 c 463 s 20; 1988 c 629 s 61; 1988 c 684 art 1 s 21,22*

CRIME VICTIM OMBUDSMAN ACT

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.

The ombudsman's files are confidential data as defined in section 13.02, subdivision 3, during the course of an investigation or while the files are active. Upon

completion of the investigation or when the files are placed on inactive status, they are private data on individuals as defined in section 13.02, subdivision 12.

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, with or without a complaint, 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. Any information received by the ombudsman retains its data classification under chapter 13 while in the ombudsman's possession.

(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. If the complaint involved the conduct of an element of the criminal justice system in relation to a criminal or civil proceeding, the ombudsman's findings shall be forwarded to the court in which the proceeding occurred.

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) On finding a complaint valid after duly considering the complaint and whatever material the ombudsman deems pertinent, 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; 1986 c 444; 1987 c 244 s 7; 1988 c 638 s 16

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