

CHAPTER 611A

CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES

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611A.01 DEFINITIONS.

For the purposes of sections 611A.01 to 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, including a good faith effort to prevent a crime, and for purposes of sections 611A.04 and 611A.045, also includes (i) a corporation that incurs loss or harm as a result of a crime, (ii) a government entity that incurs loss or harm as a result of a crime, and (iii) any other entity authorized to receive restitution under section 609.10 or 609.125. 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: 1997 c 239 art 7 s 19

611A.035 CONFIDENTIALITY OF VICTIM'S ADDRESS.

Subdivision 1. **Discretion of prosecutor not to disclose.** A prosecutor may elect not to disclose a victim's or witness's home or employment address or telephone number if the prosecutor certifies to the trial court that:

(1) the defendant or respondent has been charged with or alleged to have committed a crime;

(2) the nondisclosure is needed to address the victim's or witness's concerns about safety or security; and

(3) the victim's or witness's home or employment address or telephone number is not relevant to the prosecution's case.

If such a certification is made, the prosecutor must move at a contested hearing for the court's permission to continue to withhold this information.

The court shall either:

(1) order the information disclosed to defense counsel, but order it not disclosed to the defendant; or

(2) order the prosecutor to arrange a confidential meeting between defense counsel, or defense council's agent, and the victim or witness, at a neutral location.

This subdivision shall not be construed to compel a victim or witness to give any statement to or attend any meeting with defense counsel or defense counsel's agent.

Subd. 2. **Witness testimony in court.** 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: 1997 c 239 art 7 s 20

611A.038 RIGHT TO SUBMIT STATEMENT AT SENTENCING.

(a) A victim has the right to submit an impact statement to the court at the time of sentencing or disposition hearing. The impact statement may be presented to the court orally or in writing, at the victim's option. 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.

(b) A representative of the community affected by the crime may submit an impact statement in the same manner that a victim may as provided in paragraph (a). This impact statement shall describe the adverse social or economic effects the offense has had on persons residing and businesses operating in the community where the offense occurred.

(c) If the court permits the defendant or anyone speaking on the defendant's behalf to present a statement to the court, the court shall limit the response to factual issues which are relevant to sentencing.

(d) Nothing in this section shall be construed to extend the defendant's right to address the court under section 631.20.

History: 1997 c 239 art 7 s 21

611A.039 RIGHT TO NOTICE OF FINAL DISPOSITION OF CRIMINAL CASE.

Subdivision 1. **Notice required.** Except as otherwise provided in subdivision 2, within 15 working days after a conviction, acquittal, or dismissal in a criminal case in which there is an identifiable crime victim, the prosecutor shall make reasonable good faith efforts to provide to each affected crime victim oral or written notice of the final disposition of the case. When the court is considering modifying the sentence for a felony or a crime of violence or an attempted crime of violence, the court or its designee shall make a reasonable and good faith effort to notify the victim of the crime. If the victim is incapacitated or deceased, notice must be given to the victim's family. If the victim is a minor, notice must be given to the victim's parent or guardian. The notice must include:

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

(2) the location where the review will occur;

(3) the name and telephone number of a person to contact for additional information;
 and

(4) a statement that the victim and victim's family may provide input to the court concerning the sentence modification.

As used in this section, "crime of violence" has the meaning given in section 624.712, subdivision 5, and also includes gross misdemeanor violations of section 609.224, and non-felony violations of sections 518B.01, 609.2231, 609.3451, 609.748, and 609.749.

[For text of subd 2, see M.S.1996]

History: 1997 c 239 art 7 s 22

611A.0395 RIGHT TO INFORMATION REGARDING DEFENDANT'S APPEAL.

Subdivision 1. **Prosecuting attorney to notify victims.** (a) The prosecuting attorney shall make a reasonable and good faith effort to provide to each affected victim oral or written notice of a pending appeal. This notice must be provided within 30 days of filing of the respondent's brief. The notice must contain a brief explanation of the contested issues or a copy of the brief, an explanation of the applicable process, information about scheduled oral arguments or hearings, a statement that the victim and the victim's family may attend the argument or hearing, and the name and telephone number of a person that may be contacted for additional information.

(b) In a criminal case in which there is an identifiable crime victim, within 15 working days of a final decision on an appeal, the prosecuting attorney shall make a reasonable and

good faith effort to provide to each affected victim oral or written notice of the decision. This notice must include a brief explanation of what effect, if any, the decision has upon the judgment of the trial court and the name and telephone number of a person that may be contacted for additional information.

Subd. 2. **Exception.** The notices described in subdivision 1 do not have to be given to victims who have previously indicated a desire not to be notified.

History: 1997 c 239 art 7 s 23

611A.04 ORDER OF RESTITUTION.

[For text of subds 1 to 3, see M.S.1996]

Subd. 4. **Payment of restitution.** When the court orders both the payment of restitution and the payment of a fine and the defendant does not pay the entire amount of court-ordered restitution and the fine at the same time, the court may order that all restitution shall be paid before the fine is paid.

History: 1997 c 239 art 7 s 24

611A.045 PROCEDURE FOR ISSUING ORDER OF RESTITUTION.

Subdivision 1. **Criteria.** (a) The court, in determining whether to order restitution and the amount of the restitution, shall consider the following factors:

- (1) the amount of economic loss sustained by the victim as a result of the offense; and
- (2) the income, resources, and obligations of the defendant.

(b) If there is more than one victim of a crime, the court shall give priority to victims who are not governmental entities when ordering restitution.

[For text of subds 2 to 3, see M.S.1996]

History: 1997 c 239 art 7 s 25

611A.25 SEXUAL ASSAULT ADVISORY COUNCIL.

[For text of subds 1 and 2, see M.S.1996]

Subd. 3. **Terms; vacancies; expenses.** Section 15.059 governs the filling of vacancies and removal of members of the sexual assault advisory council. The terms of the members of the advisory council shall be two years. No member may serve on the advisory council for more than two consecutive terms. The council expires on June 30, 2001. Council members shall receive expense reimbursement as specified in section 15.059.

History: 1997 c 239 art 7 s 26

611A.361 GENERAL CRIME VICTIMS ADVISORY COUNCIL.

[For text of subds 1 and 2, see M.S.1996]

Subd. 3. **Terms; vacancies; expenses.** Section 15.059 governs the filling of vacancies and removal of members of the general crime victims advisory council. The terms of the members of the advisory council shall be two years. No member may serve on the advisory council for more than two consecutive terms. The council expires on June 30, 2001. Council members shall receive expense reimbursement as specified in section 15.059.

History: 1997 c 239 art 7 s 27

611A.52 DEFINITIONS.

[For text of subds 1 to 5, see M.S.1996]

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 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) 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 an act involving the operation of a motor vehicle, aircraft, or watercraft that results in injury or death, except that a crime includes any of the following:

(1) injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or watercraft;

(2) injury or death caused by a driver in violation of section 169.09, subdivision 1; 169.121; or 609.21; and

(3) injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which the driver knowingly and willingly participated.

(d) Notwithstanding paragraph (a), "crime" includes an act of international terrorism as defined in United States Code, title 18, section 2331, committed outside of the United States against a resident of this state.

[For text of subd 7, see M.S.1996]

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 associated with recreational therapy where a claimant has suffered amputation of a limb;

(3) reasonable expenses incurred for psychological or psychiatric products, services, or accommodations, not to exceed an amount to be set by the board, 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;

(4) loss of income that the victim would have earned had the victim not been injured;

(5) reasonable expenses incurred for substitute child care or household services to replace those the victim or claimant would have performed had the victim or the claimant's child 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

(6) 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 an amount to be determined by the board on the first day of each fiscal year;

(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 or claimant would have performed for the benefit of dependents if the victim or the claimant's child had lived.

Claims for loss of support for minor children made under clause (3) must be paid for three years or until the child reaches 18 years old, whichever is the shorter period. After three years, if the child is younger than 18 years old a claim for loss of support may be resubmitted to the board, and the board staff shall evaluate the claim giving consideration to the child's financial need and to the availability of funds to the board. Claims for loss of support for a spouse made under clause (3) shall also be reviewed at least once every three years. The board staff shall evaluate the claim giving consideration to the spouse'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.

[For text of subs 9 and 10, see M.S.1996]

History: 1997 c 239 art 7 s 28,29

611A.53 ELIGIBILITY FOR REPARATIONS.

[For text of subs 1 and 1a, see M.S.1996]

Subd. 1b. **Minnesota residents injured elsewhere.** (a) A Minnesota resident who is the victim of a crime committed outside the geographical boundaries of this state but who otherwise meets the requirements of this section shall have the same rights under this chapter as if the crime had occurred within this state upon a showing that the state, territory, or United States possession in which the crime occurred does not have a crime victim reparations law covering the resident's injury or death.

(b) Notwithstanding paragraph (a), a Minnesota resident who is the victim of a crime involving international terrorism who otherwise meets the requirements of this section has the same rights under this chapter as if the crime had occurred within this state regardless of where the crime occurred or whether the jurisdiction has a crime victims reparations law.

[For text of subd 2, see M.S.1996]

History: 1997 c 239 art 7 s 30

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 and the commissioner of public safety 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.

[For text of subd 2, see M.S.1996]

History: 1997 c 7 art 2 s 64

611A.675 FUND FOR EMERGENCY NEEDS OF CRIME VICTIMS.

Subdivision 1. **Grants authorized.** The crime victim and witness advisory council shall make grants to prosecutors and victim assistance programs for the purpose of providing emergency assistance to victims. As used in this section, "emergency assistance" includes but is not limited to:

- (1) replacement of necessary property that was lost, damaged, or stolen as a result of the crime;
- (2) purchase and installation of necessary home security devices;
- (3) transportation to locations related to the victim's needs as a victim, such as medical facilities and facilities of the criminal justice system;
- (4) cleanup of the crime scene; and
- (5) reimbursement for reasonable travel and living expenses the victim incurred to attend court proceedings that were held at a location other than the place where the crime occurred due to a change of venue.

Subd. 2. **Application for grants.** A city or county attorney's office or victim assistance program may apply to the council for a grant for any of the purposes described in subdivision 1 or for any other emergency assistance purpose approved by the council. The application must be on forms and pursuant to procedures developed by the council. The application must describe the type or types of intended emergency assistance, estimate the amount of money required, and include any other information deemed necessary by the council.

Subd. 3. **Reporting by local agencies required.** A city or county attorney's office or victim assistance program that receives a grant under this section shall file an annual report with the council itemizing the expenditures made during the preceding year, the purpose of those expenditures, and the ultimate disposition, if any, of each assisted victim's criminal case.

Subd. 4. **Report to legislature.** On or before February 1, 1999, the council shall report to the chairs of the senate crime prevention and house of representatives judiciary committees on the implementation, use, and administration of the grant program created under this section.

History: 1997 c 239 art 7 s 31

611A.71 COUNCIL; ESTABLISHMENT.

[For text of subs 1 to 4, see M.S.1996]

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;
- (8) develop ongoing public awareness efforts and programs to assist victims; and
- (9) administer the grant program described in section 611A.675.

[For text of subd 6, see M.S.1996]

Subd. 7. **Expiration.** The council expires on June 30, 2001.

History: 1997 c 239 art 7 s 32,33

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 governor, shall serve in the unclassified service at the pleasure of the governor, and shall be selected without regard to political affiliation. No person may serve as ombudsman while holding any other public office. The ombudsman is directly accountable to the governor. The ombudsman shall have the authority to investigate decisions, acts, and other matters of the criminal justice system so as to promote the highest attainable standards of competence, efficiency, and justice for crime victims in the criminal justice system.

Subd. 1a. **Organization of office.** (a) The ombudsman may appoint employees necessary to discharge responsibilities of the office. The ombudsman may delegate to staff members any of the ombudsman's authority or duties except the duties of formally making recommendations to appropriate authorities and reports to the office of the governor or to the legislature.

(b) The commissioner of public safety shall provide office space and administrative support services to the ombudsman and the ombudsman's staff.

[For text of subd 2, see M.S.1996]

Subd. 3. **Powers.** The crime victim ombudsman has those powers necessary to carry out the duties set out in subdivision 2, 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 and assistance the ombudsman considers necessary for the discharge of responsibilities. The ombudsman may inspect, examine, and be provided copies of records and documents of all elements of the criminal justice system and victim assistance programs. The ombudsman may request and shall be given access to police reports pertaining to juveniles and juvenile delinquency petitions, notwithstanding section 260.161. Any information received by the ombudsman retains its data classification under chapter 13 while in the ombudsman's possession. Juvenile records obtained under this subdivision may not be released to any person.

(c) The ombudsman may prescribe the methods by which complaints are to be made, received, and acted upon; may determine the scope and manner of investigations to be made; and subject to the requirements of sections 611A.72 to 611A.74, may determine the form, frequency, and distribution of ombudsman conclusions, recommendations, and proposals.

(d) After completing investigation of a complaint, the ombudsman shall inform in writing the complainant, the investigated person or entity, and other appropriate authorities 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.

(e) Before announcing a conclusion or recommendation that expressly or impliedly criticizes an administrative agency or any person, the ombudsman shall consult with that agency or person.

[For text of subs 4 to 6, see M.S.1996]

History: 1997 c 239 art 7 s 34-36

611A.75 [Repealed, 1997 c 7 art 2 s 67]

NOTE: This section was also amended by Laws 1997, chapter 239, article 7, section 37, to read as follows:

"611A.75 Report to legislature.

The commissioner of public safety shall report to the legislature biennially on the activities of crime victim programs under chapter 611A; except that the crime victim ombudsman shall report to the legislature biennially on the activities of the office of crime victim ombudsman."