

CHAPTER 611A

CRIME VICTIMS: RIGHTS, PROGRAMS, AGENCIES

611A.0385	Sentencing; implementation of right to notice of offender release and expungement.	611A.25	Sexual assault advisory council.
611A.06	Right to notice of release.	611A.361	General crime victims advisory council.
611A.19	Testing of sex offender for human immunodeficiency virus.	611A.372	Duties of director.
611A.201	Director of prevention of domestic violence and sexual assault.	611A.46	Classification of data.
		611A.74	Crime victim ombudsman; creation.

611A.0385 SENTENCING; IMPLEMENTATION OF RIGHT TO NOTICE OF OFFENDER RELEASE AND EXPUNGEMENT.

At the time of sentencing or the disposition hearing in a case in which there is an identifiable victim, the court or its designee shall make reasonable good faith efforts to inform each affected victim of the offender notice of release and notice of expungement provisions of section 611A.06. If the victim is a minor, the court or its designee shall, if appropriate, also make reasonable good faith efforts to inform the victim's parent or guardian of the right to notice of release and notice of expungement. The state court administrator, in consultation with the commissioner of corrections and the prosecuting authorities, shall prepare a form that outlines the notice of release and notice of expungement provisions under section 611A.06 and describes how a victim should complete and submit a request to the commissioner of corrections or other custodial authority to be informed of an offender's release or submit a request to the prosecuting authorities to be informed of an offender's petition for expungement. The state court administrator shall make these forms available to court administrators who shall assist the court in disseminating right to notice of offender release and notice of expungement information to victims.

History: 2001 c 209 s 6

611A.06 RIGHT TO NOTICE OF RELEASE.

[For text of subd 1, see M.S.2000]

Subd. 1a. Notice of expungement required. The prosecuting authority with jurisdiction over an offense for which expungement is being sought shall make a good faith effort to notify a victim that the expungement is being sought if: (1) the victim has mailed to the prosecuting authority with jurisdiction over an offense for which expungement is being sought a written request for this notice, or (2) the victim has indicated on a request for notice of expungement submitted under subdivision 1 a desire to be notified in the event the offender seeks an expungement for the offense.

A copy of any written request for a notice of expungement request received by the commissioner of corrections or other custodial authority shall be forwarded to the prosecutorial authority with jurisdiction over the offense to which the notice relates. The prosecutorial authority complies with this section upon mailing a copy of an expungement petition relating to the notice to the address which the victim has most recently provided in writing.

[For text of subds 2 to 5, see M.S.2000]

History: 2001 c 209 s 7

611A.19 TESTING OF SEX OFFENDER FOR HUMAN IMMUNODEFICIENCY VIRUS.

Subdivision 1. Testing on request of victim. (a) Upon the request or with the consent of the victim, the prosecutor shall make a motion in camera and the sentencing court shall issue an order requiring an adult convicted of or a juvenile adjudicated delinquent for violating section 609.342 (criminal sexual conduct in the first degree),

609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or any other violent crime, as defined in section 609.1095, to submit to testing to determine the presence of human immunodeficiency virus (HIV) antibody if:

(1) the crime involved sexual penetration, however slight, as defined in section 609.341, subdivision 12; or

(2) evidence exists that the broken skin or mucous membrane of the victim was exposed to or had contact with the offender's semen or blood during the commission of the crime in a manner which has been demonstrated epidemiologically to transmit the human immunodeficiency virus (HIV).

(b) When the court orders an offender to submit to testing under paragraph (a), the court shall order that the test be performed by an appropriate health professional who is trained to provide the counseling described in section 144.7414, and that no reference to the test, the motion requesting the test, the test order, or the test results may appear in the criminal record or be maintained in any record of the court or court services, except in the medical record maintained by the department of corrections.

Subd. 2. Disclosure of test results. The date and results of a test performed under subdivision 1 are private data as defined in section 13.02, subdivision 12, when maintained by a person subject to chapter 13, or may be released only with the subject's consent, if maintained by a person not subject to chapter 13. The results are available, on request, to the victim or, if the victim is a minor, to the victim's parent or guardian and positive test results shall be reported to the commissioner of health. Any test results given to a victim or victim's parent or guardian shall be provided by a health professional who is trained to provide the counseling described in section 144.7414. Data regarding administration and results of the test are not accessible to any other person for any purpose and shall not be maintained in any record of the court or court services or any other record. After the test results are given to the victim or the victim's parent or guardian, data on the test must be removed from any medical data or health records maintained under section 13.384 or 144.335 and destroyed, except for those medical records maintained by the department of corrections.

History: 2001 c 202 s 16; 2001 c 210 s 27

611A.201 DIRECTOR OF PREVENTION OF DOMESTIC VIOLENCE AND SEXUAL ASSAULT.

[For text of subd 1, see M.S.2000]

Subd. 2. Director's responsibilities. The director shall have the following duties:

(1) advocate for the rights of victims of domestic violence and sexual assault;

(2) increase public education and visibility about the prevention of domestic violence and sexual assault;

(3) encourage accountability regarding domestic violence and sexual assault at all levels of the system, and develop recommendations to improve accountability when the system fails;

(4) support prosecution and civil litigation efforts regarding domestic violence and sexual assault at the federal and state levels;

(5) study issues involving domestic violence and sexual assault as they pertain to both men and women and present findings and recommendations resulting from these studies to all branches of government;

(6) initiate policy changes regarding domestic violence and sexual assault at all levels of government;

(7) coordinate existing resources and promote coordinated and immediate community responses to better serve victims of domestic violence and sexual assault;

(8) build partnerships among law enforcement, prosecutors, defenders, advocates, and courts to reduce the occurrence of domestic violence and sexual assault;

(9) encourage and support the efforts of health care providers, mental health experts, employers, educators, clergy members, and others, in raising awareness of and addressing how to prevent domestic violence and sexual assault;

(10) coordinate and maximize the use of federal, state, and local resources available to prevent domestic violence and sexual assault and leverage more resources through grants and private funding; and

(11) serve as a liaison between the executive director of the center for crime victim services and the commissioner of health with regard to the department of health's sexual violence prevention program funded by federal block grants, and oversee how this money is spent.

[For text of subds 3 to 5, see M.S.2000]

History: *1Sp2001 c 8 art 10 s 17*

611A.25 SEXUAL ASSAULT ADVISORY COUNCIL.

[For text of subds 1 and 2, see M.S.2000]

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, 2003. Council members shall receive expense reimbursement as specified in section 15.059.

[For text of subd 5, see M.S.2000]

History: *1Sp2001 c 8 art 5 s 12*

611A.361 GENERAL CRIME VICTIMS ADVISORY COUNCIL.

[For text of subds 1 and 2, see M.S.2000]

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, 2003. Council members shall receive expense reimbursement as specified in section 15.059.

History: *1Sp2001 c 8 art 5 s 13*

611A.372 DUTIES OF DIRECTOR.

In addition to any other duties imposed by law, the director, with the approval of the commissioner of public safety, shall:

(1) supervise the administration of per diem payments to designated shelter facilities;

(2) collect data on shelter facilities;

(3) conduct an annual evaluation of the per diem program;

(4) report to the governor and the legislature on the need for emergency secure shelter;

(5) develop an application process for shelter facilities to follow in seeking reimbursement under the per diem program; and

(6) adopt rules to implement and administer sections 611A.37 to 611A.375.

History: *2001 c 152 s 1*

611A.46 CLASSIFICATION OF DATA.

(a) Personal history information and other information collected, used, and maintained by a Minnesota center for crime victim services grantee from which the

identity and location of any crime victim may be determined are 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.

(b) Personal history data and other information collected, used, and maintained by the Minnesota center for crime victim services from which the identity and location of any victim may be determined are private data on individuals as defined in section 13.02, subdivision 12.

(c) Internal auditing data shall be classified as provided by section 13.392.

History: 2001 c 202 s 17

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 and must periodically report to the commissioner of public safety on the operations and activities of the office. 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.

[For text of subs 1a to 6, see M.S.2000]

History: 1Sp2001 c 8 art 5 s 14