

# NATIONAL CRIME VICTIM LAW INSTITUTE

at Lewis & Clark Law School

PROTECTING, ENFORCING, and ADVANCING VICTIMS' RIGHTS

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## MINNESOTA VICTIMS' RIGHTS LAWS<sup>1</sup>

### Constitution

*Minnesota does not have a victims' rights amendment to its constitution.*

### Statutes

#### Crimes, Criminals; Chapter 611A – Crime Victims: Rights, Programs, Agencies

##### § 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 260B.007, subdivision 3.

##### 611A.015 – Scope of victims' rights

The rights afforded to crime victims in sections 611A.01 to 611A.06 are applicable to adult criminal cases, juvenile delinquency proceedings, juvenile traffic proceedings involving driving under the influence of alcohol or drugs, and proceedings involving any other act committed by a juvenile that would be a crime as defined in section 609.02, if committed by an adult.

##### § 611A.02 – Notification of victim services and victims' rights

Subdivision 1. Victim services.

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<sup>1</sup> Not intended to be exhaustive.

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.

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.

#### Subdivision 2. Victims' Rights.

- (a) The Crime Victim and Witness Advisory Council shall develop two model notices of the rights of crime victims.
- (b) The initial notice of the rights of crime victims must be distributed by a peace officer to each victim, as defined in section 611A.01, at the time of initial contact with the victim. The notice must inform a victim of:
  - (1) the victim's right to apply for reparations to cover losses, not including property losses, resulting from a violent crime and the telephone number to call to request an application;
  - (2) the victim's right to request that the law enforcement agency withhold public access to data revealing the victim's identity under section 13.82, subdivision 17, paragraph (d);
  - (3) the additional rights of domestic abuse victims as described in section 629.341;
  - (4) information on the nearest crime victim assistance program or resource; and
  - (5) the victim's rights, if an offender is charged, to be informed of and participate in the prosecution process, including the right to request restitution.
- (c) A supplemental notice of the rights of crime victims must be distributed by the city or county attorney's office to each victim, within a reasonable time after the offender is charged or petitioned. This notice must inform a victim of all the rights of crime victims under this chapter.

#### Subdivision 3. Notice of the rights of victims in juvenile court.

- (a) The Crime Victim and Witness Advisory Council shall develop a notice of the rights of victims in juvenile court that explains:
  - (1) the rights of victims in the juvenile court;
  - (2) when a juvenile matter is public;
  - (3) the procedures to be followed in juvenile court proceedings; and
  - (4) other relevant matters.
- (b) The juvenile court shall distribute a copy of the notice to each victim of juvenile crime who attends a juvenile court proceeding, along with a notice of services for victims available in that judicial district.

### **§ 611A.021 – Notice of right to request withholding of certain public data**

A victim has a right under section 13.82, subdivision 17, clause (d), to request a law enforcement agency to withhold public access to data revealing the victim's identity.

### **§ 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, including the amount of time recommended for the defendant to serve in jail or prison if the court accepts the agreement; and
- (b) the right to be present at the sentencing hearing and at the hearing during which the plea is presented to the court and to express orally or in writing, at the victim's option, 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.

Subdivision 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.

### **§ 611A.0301 – Right to submit statement at plea presentation hearing**

A victim has the rights described in section 611A.03, subdivision 1, paragraph (b), at a plea presentation hearing.

### **§ 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, 609.2242, 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, 609.687, 609.713, and 609.749.

### **§ 611A.0311 – Domestic abuse prosecutions plan and procedures; pilot program**

Subdivision 1. Definitions.

- (a) "Domestic abuse" has the meaning given in section 518B.01, subdivision 2.
- (b) "Domestic abuse case" means a prosecution for: (1) a crime that involves domestic abuse; (2) violation of a condition of release following an arrest for a crime that involves domestic abuse; or (3) violation of a domestic abuse order for protection.

Subdivision 2. Contents of plan.

Each county and city attorney shall develop and implement a written plan to expedite and improve the efficiency and just disposition of domestic abuse cases brought to the prosecuting authority. Domestic abuse advocates, law enforcement officials, and other interested members of the public must have an opportunity to assist in the development or adaptation of the plans in each jurisdiction. The commissioner shall make the model and related training and technical assistance available to all city and county attorneys. All plans must state goals and contain policies and procedures to address the following matters:

- (1) early assignment of a trial prosecutor who has the responsibility of handling the domestic abuse case through disposition, whenever feasible, or, where applicable, probation revocation; and early contact between the trial prosecutor and the victim;
- (2) procedures to facilitate the earliest possible contact between the prosecutor's office and the victim for the purpose of acquainting the victim with the criminal justice process, the use of subpoenas, the victim's role as a witness in the prosecution, and the domestic abuse or victim services that are available;
- (3) procedures to coordinate the trial prosecutor's efforts with those of the domestic abuse advocate or victim advocate, where available, and to facilitate the early provision of advocacy services to the victim;
- (4) procedures to encourage the prosecution of all domestic abuse cases where a crime can be proven;
- (5) methods that will be used to identify, gather, and preserve evidence in addition to the victim's in-court testimony that will enhance the ability to prosecute a case when a victim is reluctant to assist, including but not limited to physical evidence of the victim's injury, evidence relating to the scene of the crime, eyewitness testimony, and statements of the victim made at or near the time of the injury;
- (6) procedures for educating local law enforcement agencies about the contents of the plan and their role in assisting with its implementation;
- (7) the use for subpoenas to victims and witnesses, where appropriate;
- (8) procedures for annual review of the plan to evaluate whether it is meeting its goals effectively and whether improvements are needed; and
- (9) a timetable for implementation.

Subdivision 3. Notice filed with department of public safety.  
Each city and county attorney shall file a notice that a prosecution plan has been adopted with the commissioner of public safety by June 1, 1994.

### **§ 611A.0315 – Victim notification; domestic assault; harassment**

Subdivision 1. Notice of decision not to prosecute.

- (a) A prosecutor shall make every reasonable effort to notify a victim of domestic assault or harassment 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.
- (b) Whenever a prosecutor dismisses criminal charges against a person accused of domestic assault or harassment, a record shall be made of the specific reasons for the dismissal. If the dismissal is due to the unavailability of the witness, the prosecutor shall indicate the specific reason that the witness is unavailable.
- (c) Whenever a prosecutor notifies a victim of domestic assault or harassment under this section, the prosecutor shall also inform the victim of the method and benefits of seeking an order for protection under section 518B.01 or a restraining order under section 609.748 and that the victim may seek an order without paying a fee.

Subdivision 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.
- (d) "Harassment" means a violation of section 609.749.

### **§ 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.

#### **§ 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, such as increased bailiff surveillance and victim escorts.

#### **§ 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, telephone number, or date of birth 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, telephone number, or date of birth is not relevant to the prosecution's case.

If such a certification is made, the prosecutor must make a motion with proper notice 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 contact the victim or witness to arrange a confidential meeting between defense counsel, or defense counsel's agent, and the victim or witness, at a neutral location, if the victim or witness consents to a meeting.

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.

Subdivision 2. Witness testimony in court.

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

### **§ 611A.036 – Prohibition against employer retaliation**

An employer or employer's agent who threatens to discharge or discipline a victim or witness, or who discharges, disciplines, or causes a victim or witness to be discharged from employment or disciplined because the victim or the witness 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 or witness discharged from employment in violation of this section, and to pay the victim or witness back wages as appropriate.

### **§ 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.

Subdivision 2. Notice to victim.

The officer conducting a presentence or predispositional investigation shall make reasonable and good faith efforts to assure that the victim of that crime is provided with the following information by contacting the victim or assuring that another public or private agency has contacted the victim: (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.

### **§ 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.

### **§ 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.

### **§ 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 nonfelony violations of sections 518B.01, 609.2231, 609.3451, 609.748, and 609.749.

Subdivision 2. Exception.

If a prosecutor contacts an identifiable crime victim in advance of the final case disposition, either orally or in writing, and notifies the victim of the victim's right to request information on the final disposition of the case, the prosecutor shall only be required to provide the notice described in subdivision 1 to those victims who have indicated in advance their desire to be notified of the final case disposition.

### **§ 611A.0392 – Notice to community crime prevention group**

Subdivision 1. Definitions.

- (a) As used in this section, the following terms have the meanings given them.
- (b) "Cities of the first class" has the meaning given in section 410.01.
- (c) "Community crime prevention group" means a community group focused on community safety and crime prevention that:
  - (1) meets regularly for the purpose of discussing community safety and patrolling community neighborhoods for criminal activity;

- (2) is previously designated by the local law enforcement agency as a community crime prevention group; and
- (3) interacts regularly with the police regarding community safety issues.

Subdivision 2. Notice.

- (a) A law enforcement agency that is responsible for arresting individuals who commit crimes within cities of the first class shall make reasonable efforts to disclose certain information in a timely manner to the designated leader of a community crime prevention group that has reported criminal activity, excluding petty misdemeanors, to law enforcement. The law enforcement agency shall make reasonable efforts to disclose information on the final outcome of the investigation into the criminal activity including, but not limited to, where appropriate, the decision to arrest or not arrest the person and whether the matter was referred to a prosecuting authority. If the matter is referred to a prosecuting authority, the law enforcement agency must notify the prosecuting authority of the community crime prevention group's request for notice under this subdivision.
- (b) A prosecuting authority who is responsible for filing charges against or prosecuting a person arrested for a criminal offense in cities of the first class shall make reasonable efforts to disclose certain information in a timely manner to the designated leader of a community crime prevention group that has reported specific criminal activity to law enforcement. The prosecuting authority shall make reasonable efforts to disclose information on the final outcome of the criminal proceeding that resulted from the arrest including, but not limited to, where appropriate, the decision to dismiss or not file charges against the arrested person.
- (c) A community crime prevention group that would like to receive written or Internet notice under this subdivision must request the law enforcement agency and the prosecuting authority where the specific alleged criminal conduct occurred to provide notice to the community crime prevention group leader. The community crime prevention group must provide the law enforcement agency with the name, address, and telephone number of the community crime prevention group leader and the preferred method of communication.

**§ 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.

**Subdivision 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.

**§ 611A.04 – Order of restitution**

**Subdivision 1. Request; decision.**

- (a) A victim of a crime has the right to receive restitution as part of the disposition of a criminal charge or juvenile delinquency proceeding against the offender if the offender is convicted or found delinquent. The court, or a person or agency designated by the court, shall request information from the victim to determine the amount of restitution owed. The court or its designee shall obtain the information from the victim in affidavit form or by other competent evidence. Information submitted relating to restitution must describe the items or elements of loss, itemize the total dollar amounts of restitution claimed, and specify the reasons justifying these amounts, if restitution is in the form of money or property. A request for restitution may include, but is not limited to, any out-of-pocket losses resulting from the crime, including medical and therapy costs, replacement of wages and services, expenses incurred to return a child who was a victim of a crime under section 609.26 to the child's parents or lawful custodian, and funeral expenses. An actual or prospective civil action involving the alleged crime shall not be used by the court as a basis to deny a victim's right to obtain court-ordered restitution under this section. In order to be considered at the sentencing or dispositional hearing, all information regarding restitution 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 or the offender's attorney at least 24 hours before the sentencing or dispositional hearing. The issue of restitution is reserved or the sentencing or dispositional hearing or hearing on the restitution request may be continued if the victim's affidavit or other competent evidence submitted by the victim is not received in time. At the sentencing or dispositional hearing, the court shall give the offender an opportunity to respond to specific items of restitution and their dollar amounts in accordance with the procedures established in section 611A.045, subdivision 3.
- (b) The court may amend or issue an order of restitution after the sentencing or dispositional hearing if:
- (1) the offender is on probation, committed to the commissioner of corrections, or on supervised release;
  - (2) sufficient evidence of a right to restitution has been submitted; and
  - (3) the true extent of the victim's loss or the loss of the crime victims reparations board was not known at the time of the sentencing or dispositional hearing, or hearing on the restitution request.

If the court holds a hearing on the restitution request, the court must notify the offender, the offender's attorney, the victim, the prosecutor, and the crime victims reparations board 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 or partial restitution and shall state on the record its reasons for its decision on restitution if information relating to restitution has been presented. If the court grants partial restitution it shall also specify the full amount of restitution that may be docketed as a civil judgment under subdivision 3. The court may not require that the victim waive or otherwise forfeit any rights or causes of action as a condition of granting restitution or partial restitution. In the case of a defendant who is on probation, the court may not refuse to enforce an order for restitution solely on the grounds that the order has been docketed as a civil judgment.

**Subdivision 1a. Crime board request.**

The crime victims reparations board may request restitution on behalf of a victim by filing a copy of orders of the board, if any, which detail any amounts paid by the board to the victim. The board may file the payment order with the court administrator or with the person or agency the court has designated to obtain information relating to restitution. The board shall submit the payment order not less than three business days after it is issued by the board. The court administrator shall provide copies of the payment order to the prosecutor and the offender or the offender's attorney within 48 hours of receiving it from the board or at least 24 hours before the sentencing or dispositional hearing, whichever is earlier. By operation of law, the issue of restitution is reserved if the payment order is not received at least three days before the sentencing or dispositional hearing. The filing of a payment order 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 or on the victim's behalf, restitution may be made directly to the victim. If the board has paid reparations to the victim or on the victim's behalf, the court shall order restitution payments to be made directly to the board.

**Subdivision 1b. Affidavit of disclosure.**

An offender who has been ordered by the court to make restitution in an amount of \$500 or more shall file an affidavit of financial disclosure with the correctional agency responsible for investigating the financial resources of the offender on request of the agency. The commissioner of corrections shall prescribe what financial information the affidavit must contain.

**Subdivision 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 disburse restitution in incremental payments and may not keep a restitution payment for longer than 30 days; except that the court administrator is not required to disburse a restitution payment that is under \$10 unless the payment would fulfill the offender's restitution obligation. 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.

**Subdivision 3. Effect of order for restitution.**

An order of restitution may be enforced by any person named in the order to receive the restitution, or by the crime victims reparations board in the same manner as a judgment in a civil action. Any order for restitution in favor of a victim shall also operate as an order for restitution in favor of the crime victims reparations board, if the board has paid reparations to the victim or on the victim's behalf. Filing fees for docketing an order of restitution as a civil judgment are waived for any victim named in the restitution order. An order of restitution shall be docketed as a civil judgment, in the name of any person named in the order and in the name of the crime victims reparations board, by the court administrator of the district court in the county in which the order of restitution was entered. The court administrator also shall notify the commissioner of revenue of the restitution debt in the manner provided in chapter 270A, the revenue recapture act. A juvenile court is not required to appoint a guardian ad litem for a juvenile offender before docketing a restitution order. Interest shall accrue on the unpaid balance of the judgment as provided in section 549.09. Whether the order of restitution has been docketed or not, it is a debt that is not dischargeable in bankruptcy. 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.

**Subdivision 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.

**Subdivision 5. Unclaimed restitution payments.**

Restitution payments held by the court for a victim that remain unclaimed by the victim for more than three years shall be deposited in the crime victims account created in section 611A.612.

At the time the deposit is made, the court shall record the name and last known address of the victim and the amount being deposited, and shall forward the data to the crime victims reparations board.

**§ 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.

**Subdivision 2. Presentence investigation.**

The presentence investigation report made pursuant to section 609.115, subdivision 1, must contain information pertaining to the factors set forth in subdivision 1.

**Subdivision 2a. Payment structure.**

The court shall include in every restitution order a provision requiring a payment schedule or structure. The court may assign the responsibility for developing the schedule or structure to the court administrator, a probation officer, or another designated person. The person who develops the payment schedule or structure shall consider relevant information supplied by the defendant. If the defendant is placed on supervised probation, the payment schedule or structure must be incorporated into the probation agreement and must provide that the obligation to pay restitution continues throughout the term of probation. If the defendant is not placed on probation, the structure or schedule must provide that the obligation to pay restitution begins no later than 60 days after the restitution order is issued.

**Subdivision 2. Dispute; evidentiary burden; procedures.**

- (a) At the sentencing, dispositional hearing, or hearing on the restitution request, the offender shall have the burden to produce evidence if the offender intends to challenge the amount of restitution or specific items of restitution or their dollar amounts. This burden of production must include a detailed sworn affidavit of the offender setting forth all challenges to the restitution or items of restitution, and specifying all reasons justifying dollar amounts of restitution which differ from the amounts requested by the victim or victims. The affidavit must be served on the prosecuting attorney and the court at least five business days before the hearing. 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 loss sustained by a victim as a result of the offense and the appropriateness of a particular type of restitution is on the prosecution.
- (b) An offender may challenge restitution, but must do so by requesting a hearing within 30 days of receiving written notification of the amount of restitution requested, or within 30 days of sentencing, whichever is later. Notice to the offender's attorney is deemed notice to the offender. The hearing request must be made in writing and filed with the court administrator. A defendant may not challenge restitution after the 30-day time period has passed.

**§ 611A.046 – Victim’s right to request probation review hearing**

A victim has the right to ask the offender's probation officer to request a probation review hearing if the offender fails to pay restitution as required in a restitution order.

**§ 611A.05 – Penalties on 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.

### **§ 611A.06 – Right to notice of release**

#### Subdivision 1. Notice of release required.

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; released from a juvenile correctional facility; released from a facility in which the offender was confined due to incompetency, mental illness, or mental deficiency, or commitment under section 253B.18 or 253B.185; or if the offender's custody status is reduced, 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. The good faith effort to notify the victim must occur prior to the offender's release or when the offender's custody status is reduced. For a victim of a felony crime against the person for which the offender was sentenced to imprisonment for more than 18 months, the good faith effort to notify the victim must occur 60 days before the offender's release.

#### Subdivision 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.

#### Subdivision 2. Contents of notice.

The notice given to a victim of a crime against a person must include the conditions governing the offender's release, and either the identity of the corrections agent who will be supervising the offender's release or a means to identify the court services agency that will be supervising the offender's release. 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.

#### Subdivision 3. Notice of escape.

If an offender escapes from imprisonment or incarceration, including from release on extended furlough or work release, or from any facility described in subdivision 1, the commissioner or

other custodial authority shall make all reasonable efforts to notify a victim who has requested notice of the offender's release under subdivision 1 within six hours after discovering the escape and shall also make reasonable efforts to notify the victim within 24 hours after the offender is apprehended.

**Subdivision 4. Private data.**

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.

**Subdivision 5. Definition.**

As used in this section, "crime against the person" means a crime listed in section 611A.031.

**Additional statutes of interest to a crime victim's attorney may include:**

Sex Offender HIV testing, MINN. STAT. § 611A.19

Notice of Risk of Sexually Transmitted Diseases, MINN. STAT. § 611A.20

Domestic Violence and Sexual Assault Prevention, MINN. STAT. §§ 611A.201 & .202

Program to Aid Victims of Sexual Attack, MINN. STAT. §§ 611A.21 to .221 & .25

Battered Women, MINN. STAT. §§ 611A.31 to .361

Crime Victims Reparations, MINN. STAT. §§ 611A.51 to .68