

# **Crime Victim Laws in Minnesota**

## **An Overview**

Minnesota Statutes address crime victims in several ways. The law provides for financial assistance, advocacy and support services, protection from harm or harassment, notification provisions, and the right to participate in the criminal process for victims of crime. This information brief summarizes the major features of laws enacted in Minnesota to protect the rights and interests of crime victims.

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# Topical Summary of Crime Victim Laws

## Financial Assistance for Victims

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**Reparations.** A person who is the victim of a crime in Minnesota and suffers economic loss as a direct result of injury or death may apply for and receive reparations from the state. Additionally, Minnesota residents who are victimized by crime outside of Minnesota are eligible for reparations from this state if the jurisdiction (domestic or abroad) where the crime occurred does not have a reparations law covering the resident's injury or death. If, however, the crime was an act of international terrorism, Minnesota residents are eligible for reparations regardless of where the crime occurred or whether the jurisdiction has a reparations law for crime victims. The victim is eligible for reparations whether or not the perpetrator is prosecuted for the crime. However, a victim is not eligible for reparations if the victim was an accomplice of the offender or was in the process of committing a criminal act at the time of the injury.

In most cases, the crime must have been reported to the police within 30 days of its occurrence, and the reparations claim must have been filed within three years of the victim's injury or death. The law contains an exception to these deadlines for cases involving child abuse. In these cases, the reparations claim must be filed within three years of the time the crime was reported to the police, and there is no time deadline for when the police report must be made.

The types of economic loss for which reparations may be paid are:

- medical, chiropractic, rehabilitative, and hospital expenses;
- recreational therapy associated with the loss of a limb;
- expenses incurred for necessary psychiatric or psychological services, up to a maximum limit set by the Crime Victims Reparations Board;
- loss of income;
- expenses incurred for necessary child care or household services;
- funeral, burial, or cremation expenses;
- loss of support; and
- reasonable costs incurred to return a child victim of kidnapping or abduction home.

The victim must pay the first \$50 of economic loss, and the maximum amount of reparations that may be paid to an individual is \$50,000.

Claims are submitted to the Crime Victims Reparations Board, whose staff reviews them individually and decides the amount of reparations to which the victim is entitled. The claimant

must be a victim, a family member of a victim, dependent, estate of a deceased victim, a person purchasing products or services for a victim, or the victim's guardian, guardian ad litem, conservator, or authorized agent.<sup>1</sup> A claimant who disputes the amount of reparations awarded may ask the entire board to reconsider the staff's decision. The board, upon reconsideration, may affirm, reverse, or modify the prior ruling. A claimant who is denied reparations upon reconsideration may appeal the decision under the Administrative Procedures Act.

The board receives funding for reparations from a number of sources including the state general fund, deductions from prison inmate wages, reimbursements from court-ordered restitution payments, payments made under the "Son of Sam" law (see page 5), and penalty assessments or surcharges imposed on federal crimes. [Minn. Stat. §§ 611A.51 to 611A.67](#).

**Restitution.** Under Minnesota law, a sentencing judge may stay execution or imposition of a sentence and place the defendant on probation under conditions prescribed by the judge. One of these conditions of probation can be the payment of restitution. Indeed, if the defendant is not ordered to serve jail time as a condition of probation, the statute directs the sentencing judge to order a noninstitutional sanction, such as the payment of restitution, where practicable. With the victim's consent, a court also may order an offender to work in lieu of or to work off restitution. [Minn. Stat. § 609.135](#). Payment of restitution also may be ordered in cases where a sentence is imposed and executed. If the victim is deceased or already has been fully compensated, the court may order the offender to pay the restitution to a victim assistance program or other program directed by the court. When a 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 be paid before the fine is paid. [Minn. Stat. §§ 609.10 and 609.125](#). In a few instances, restitution is mandatory, although it may be reduced or paid in installments if the defendant is indigent. See [Minn. Stat. §§ 343.21](#), subd. 9a (harm to service animals); [609.226](#), subd. 4 (harm to service animals); [609.527](#), subd. 4 (identity theft victims; no indigency provision); and [609.596](#), subd. 2b (harm to public safety dog).

Under the Crime Victims Bill of Rights, every crime victim, including a corporation, governmental entity, or victim of a juvenile offender, who incurs loss or harm as a result of a crime, has the right to receive court-ordered restitution as part of the disposition of a criminal charge or juvenile delinquency proceeding. The term "victim" includes the family members, guardian, or custodian of a minor, incompetent, incapacitated, or deceased person. [Minn. Stat. § 611A.01](#). If there is more than one victim of a crime, the court must give priority to victims who are not governmental entities when ordering restitution. The Crime Victims Reparations Board also may seek restitution on behalf of a reparations claimant.

The restitution request is submitted to the court and must itemize the amounts claimed and the reasons justifying these amounts. If an offender intends to challenge these restitution amounts, he or she must produce detailed evidence in affidavit form of the basis for the challenge and request a hearing within 30 days of receiving written notice of the amount of restitution requested, or within 30 days of sentencing, whichever is later.

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<sup>1</sup> See <https://dps.mn.gov/divisions/ojp/forms-documents/Documents/Service-Provider-Handbook.pdf>.

If the court orders the payment of restitution, it must include a payment schedule or structure in the order. If the court orders partial restitution, it also must specify the full amount of restitution that may be docketed as a civil judgment. If the court denies restitution, it must state on the record its reasons for doing so. The court may not use an actual or prospective civil action or a docketed civil judgment as a basis for denying restitution. [Minn. Stat. §§ 611A.01; 611A.04; and 611A.045](#). (See also [Minn. Stat. § 152.0275](#), subd. 1, paras. (b) and (c) [restitution allowed in methamphetamine manufacture cases].)

If restitution is ordered but not paid, the victim may seek enforcement of the order in the same manner as he or she would seek enforcement of a civil judgment. Filing fees for docketing an order of restitution as a civil judgment are waived for any victim named in the restitution order. [Minn. Stat. § 611A.04](#).

Restitution also may be collected from the offender's prison wages, tax refund, or cash bail deposit, if any. [Minn. Stat. §§ 243.23](#), subd. 3; [244.18](#); and [270A.03](#), subd. 5. Restitution orders, whether or not docketed as civil judgments, are debts that are not dischargeable in bankruptcy. In addition, if restitution was ordered as a condition of probation, the court may revoke probation for failure to pay and sentence the offender to prison or payment of a fine.

- Probation officers can seek a probation review hearing if restitution is not paid in accordance with the payment schedule or structure in the restitution order.
- Probation officers must seek a probation review hearing if restitution has not been paid by an adult or juvenile offender 60 days prior to the expiration of probation.

Courts can extend an offender's probation period for up to one year if the court finds at a probation review hearing that the offender has failed to pay court-ordered restitution in accordance with the payment schedule and that it is unlikely that the offender will satisfy the restitution obligation before probation expires. This one-year extension may be renewed once if the same circumstances are present one year later at another review hearing.

[Minn. Stat. §§ 609.135](#), subds. 1a and 2, para. (g); and [260B.198](#), subd. 8.

The district court administrator must keep track of the amount of restitution ordered in each case, any changes to the restitution order, and the amount of restitution actually paid by the offender. The district court administrator must forward this data to the state court administrator who compiles statistics on the degree to which victims are being compensated for economic injury by means of restitution payments. [Minn. Stat. § 611A.04](#), subd. 2.

If the court holds restitution payments for a victim and these payments are not claimed for more than three years, the court must deposit the amount being held into the general crime victims' account in the state treasury for use as crime victim reparations. At the time this deposit is made, the court must record the name and last known address of the victim and the amount being deposited and forward this information to the Crime Victims Reparations Board. [Minn. Stat. § 611A.04](#), subd. 5.

The financial assets of accused felons may be attached and frozen if \$10,000 or more allegedly has been lost as a result of the crime and an attachment order is necessary to ensure eventual restitution to victims of the crime. [Minn. Stat. § 609.532](#).

**Immunity from Civil Liability for Offender's Injuries.** A perpetrator of a violent crime assumes the risk of loss, injury, or death resulting from or arising out of a course of criminal conduct committed by the perpetrator or an accomplice. The crime victim is immune from and not liable for any civil damages as a result of the victim's acts or omissions if the victim used reasonable force. Additionally, the court in such a civil action may award attorney's fees and costs to the victim if the perpetrator does not prevail. [Minn. Stat. § 611A.08](#).

**"Son of Sam" Law.** [Minnesota Statutes, section 611A.68](#), colloquially known as the "Son of Sam" law, prohibits persons convicted of a felony or found not guilty of a felony by reason of insanity from profiting by exploiting the crime in the media or through the entertainment industry. Any person or organization that enters into a contract with a felony offender for the reenactment of or an interview about the crime must forward any money owed to the offender under the contract to the Minnesota Crime Victims Reparations Board. This prohibition applies for ten years following the conviction or finding of not guilty by reason of insanity or, if the offender is imprisoned, for ten years after the offender's release. The board is authorized to disburse contract proceeds for the following purposes:

- to reimburse itself for any reparations award previously made to the victim of the offender's crime
- to allocate up to 10 percent of the proceeds for the benefit of the offender's minor dependent children if it can be shown that the funds will not be used to benefit the offender
- to make reparations payments to the victim of the offender's crime including, where needed, reparations for pain and suffering and reparations in excess of the \$50,000 maximum limit contained in the reparations act
- to use the proceeds to pay reparations to victims of other crimes, if any money remains after these other claims are paid, or if no claims are made against the proceeds within five years of the date on which the board received them

Moreover, if ordered by a court, the board must pay from the offender's account reasonable legal expenses related to the offender's appeal of the felony conviction or defense against a victim's claim for reparations. It is a gross misdemeanor to willfully fail to notify the board of the existence of a contract covered by the Son of Sam law, and it is a misdemeanor to take any other action to defeat the operation of the statute.

The constitutionality of Minnesota's Son of Sam law has been called into question by the U.S. Supreme Court's decision in *Simon & Schuster, Inc. v. Members of the New York State Crime Victims Board*, 112 S. Ct. 501 (1991). In that case, the Court held that New York's Son of Sam law was overbroad and violated free expression rights under the First Amendment for two reasons: (1) it covered all works concerning the criminal activity of the author, whether or not the author was convicted or even accused of any crime; and (2) it applied to any work by an offender on any subject so long as the work included some thought or recollection by the author concerning his or her crime.

Because Minnesota's law is limited to felony offenders who have been convicted or found not guilty by reason of insanity, it does not share the first defect of the New York law. However, Minnesota's law may be vulnerable to constitutional attack for the second reason cited by the Court, because it applies not only to a reenactment of the felony offender's crime, but also to works containing "the expression of the offender's thoughts, feelings, opinions, or emotions about the crime." [Minn. Stat. § 611A.68](#), subd. 1, para. (a).

Subsequent court decisions have indicated that the government's interests in compensating victims and depriving criminals of the profits of their crime can be achieved constitutionally through content-neutral laws, such as forfeiture laws. Because such laws focus on depriving criminals of all crime-derived profits, not just those generated by the offender's exercise of First Amendment-protected speech, they likely would be ruled constitutional. See e.g. *In Re Opinion of Justices to the Senate*, 764 N.E.2d 343, 350 (Mass. 2002).

**Fund for Emergency Needs of Crime Victims.** Emergency grants are available to prosecutors and victim assistance programs for the purpose of providing emergency assistance to victims. "Emergency assistance" is defined to include, among other things:

- replacement of necessary property that was lost, damaged, or stolen as a result of the crime;
- purchase and installation of necessary home security devices;
- transportation to locations related to the victim's needs, such as medical facilities and facilities of the criminal justice system;
- cleanup of the crime scene;
- 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; and
- reimbursement of towing and storage fees incurred due to impoundment of a recovered stolen vehicle.

[Minn. Stat. § 611A.675](#).

## **Protection of Victims From Harm or Harassment**

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**Tampering with a Witness.** It is unlawful to use force, threats, or coercion to prevent or dissuade another person from being a witness in any legal proceeding or from reporting a crime to the police. It also is unlawful to coerce a witness into testifying falsely at a legal proceeding or providing false information to law enforcement authorities, or to retaliate or threaten to retaliate against a witness for the witness's testimony or report. The criminal penalty for these offenses is a five-year felony, gross misdemeanor, or misdemeanor depending on the degree of force or intimidation used or attempted. If, however, the person causes or, by means of an explicit or implicit credible threat, threatens to cause great bodily harm or death to another in the course of committing first-degree witness tampering in connection with a criminal proceeding, the crime is punishable by up to 20 years' imprisonment and/or a \$30,000 fine. [Minn. Stat. § 609.498](#). If a firearm or other dangerous weapon is used as part of the commission of a felony witness tampering offense, the mandatory minimum sentences of [Minnesota Statutes, section 609.11](#), apply. [Minn. Stat. § 609.11](#), subd. 9.

**Privacy of Address, Telephone Number, and Date of Birth.** Prosecutors may elect not to disclose a victim's or witness's home address, employment address, telephone number, or date of birth upon certification to the trial court that:

- the defendant or respondent has been charged with or is alleged to have committed a crime;
- nondisclosure is necessary for safety reasons; and
- the information 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 must then either: (1) order the information disclosed to the defense counsel but not disclosed to the defendant, or (2) order the prosecutor to contact the victim or witness to arrange a confidential meeting with the defense counsel if the victim or witness consents to the meeting. The law expressly states that it shall not be construed to compel a victim or witness to give a statement to, or to attend a meeting with, defense counsel. [Minn. Stat. § 611A.035](#).

A crime victim or witness who testifies in court proceedings may not be compelled to state his or her home or business address or date of birth on the record in open court unless the court finds that the testimony would be relevant evidence. [Minn. Stat. § 611A.035](#).

Additionally, Minnesota law allows motor vehicle owners, driver's license holders, and Minnesota ID cardholders to request that the Commissioner of Public Safety not release their residence addresses to the public. Motor vehicle owners also may ask the commissioner not to release their names to the public. The commissioner must grant the request if the individual states in writing that keeping this information private is needed to protect the safety of the individual or the individual's family. If the residence address is "shielded" under this provision, the individual must provide a substitute mailing address for the commissioner to use in any documents and notices relating to the motor vehicle, driver's license, or ID card. The



individual's residence address or, where applicable, name will remain available to law enforcement agencies. Additionally, the commissioner may disclose personal information when its use is related to the operation of a motor vehicle or to public safety. The commissioner may, however, refuse disclosure if the requester seems likely to use the information for an illegal, improper, or noninvestigative purpose. [Minn. Stat. §§ 168.346 and 171.12](#), subd. 7.

**Witness and Victim Protection Fund.** The Commissioner of Public Safety administers a witness and victim protection fund from which grants are awarded to local officials to provide relocation and other assistance to witnesses and victims who are likely targets of violence or intimidation. Examples of the types of assistance provided by this fund include providing documents to enable the person to establish a new identity, new housing, transportation of household goods to the new residence, payment of basic living expenses, and employment assistance. [Minn. Stat. § 299C.065](#), subd. 1a.

**Address Confidentiality Program.** A victim of domestic violence, sexual assault, or stalking may apply to the secretary of state to participate in the address confidentiality program, known as the "Safe at Home" program. As a participant, the victim may designate the secretary of state as an agent for purposes of service of process and for receiving mail. A person may apply on behalf of a minor or incapacitated person.

Since the program started in 2007, it has expanded and more protections have been added. For example, a program participant may notify his or her landlord and request that the landlord not display the individual's name at the protected address. If a program participant is involved in a legal proceeding, the court may issue a protective order to prevent disclosure of the individual's location. A participant may also register as an absentee voter. [Minn. Stat. §§ 5B.01 to 5B.11](#).

**Notice of Right to Keep Identity Confidential.** A crime victim or witness has the right to ask a law enforcement agency to withhold public access to public information in the agency's records relating to the victim's or witness's identity. The agency must do so unless it reasonably determines that revealing the victim's or witness's identity would not threaten that person's personal safety or property. The identity of a victim of criminal sexual conduct or child pornography must be kept confidential, whether the victim requests it or not. [Minn. Stat. §§ 13.82](#), subd. 17(b) and (d); and [611A.021](#).

**Separate Waiting Area.** If possible, courts must provide victims with a waiting area during court proceedings that is separate from the waiting area used by the defendant, defense witnesses, and the defendant's relatives. If a separate waiting area is not feasible, the court must provide other safeguards, such as increased bailiff surveillance and escort services, to minimize the victim's contact with such people during court proceedings. [Minn. Stat. § 611A.034](#).

**Employer Retaliation.** An employer is prohibited from retaliating against an employee that takes reasonable time off from work to: (1) answer a subpoena or request of a prosecutor, (2) seek an order for protection (OFP), or (3) seek a restraining order. This protection also applies to a victim's spouse or next of kin if the case involves a violent crime. An employer that violates this provision is guilty of a misdemeanor and must pay back wages and offer reinstatement. An employee may also bring a civil cause of action and seek damages, costs and disbursements, and attorney's fees.



An employee must provide an employer with 48 hours' advance notice of expected absence from the workplace, except in cases of imminent danger to the health or safety of the employee or employee's child. An employer may ask for verification as to the employee's whereabouts, but any information provided must be kept confidential. [Minn. Stat. §§ 518B.01](#), subd. 23; [609.748](#), subd. 10; and [611A.036](#).

**Stalking Crimes.** Minnesota law provides gross misdemeanor and felony penalties for stalking. "Stalking" is defined to mean engaging in intentional conduct that (1) the actor knows or has reason to know would cause the victim to feel frightened, threatened, oppressed, persecuted, or intimidated; and (2) does cause this reaction on the part of the victim. For a conviction under this law, the prosecutor does not need to prove that the actor intended to cause the victim to feel frightened, threatened, oppressed, persecuted, or intimidated.

Gross misdemeanor stalking includes making threats, monitoring, or pursuing another, returning to the property of another without consent or claim of right to the property, making repeated phone calls or inducing a victim to make phone calls, making someone's telephone repeatedly ring, repeatedly mailing or delivering objects to a person, repeatedly sending messages to a person (including electronic messages), or knowingly making false allegations against a peace officer about the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties. Felony penalties apply to persons who commit repeat stalking violations; commit certain "aggravated" stalking crimes, such as stalking another with intent to tamper with a juror or judicial proceeding or retaliate against a judicial officer or attorney in connection with a judicial proceeding; or engage in a pattern of stalking conduct that is directed at an individual or one or more members of a single household and that causes the victim to feel terrorized or fear bodily harm. [Minn. Stat. § 609.749](#).

A mandatory minimum penalty applies when a person possesses a dangerous weapon at the time of the offense. If the dangerous weapon is a firearm, a three-year penalty applies for the first offense, and a five-year penalty applies to subsequent offenses; if the dangerous weapon is not a firearm, a one-year penalty applies to the first offense, and a three-year penalty applies to subsequent offenses. [Minn. Stat. § 609.11](#), subds. 4, 5, and 9.

**Harassment Restraining Order.** Victims of harassment may seek and obtain (on their own) civil relief from harassment under the harassment restraining order law. "Harassment" is defined in this law to include: (1) a single physical or sexual assault act, or repeated, intrusive, or unwanted acts, words, or gestures that have or are intended to have a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the parties; (2) repeated "targeted residential picketing" directed solely at a particular residence which either interferes with the occupant's access to or exit from the property, or otherwise adversely affects the occupant's safety, security, or privacy; and (3) engaging in a pattern of attending public events after being notified that the person's presence is harassing to another. Filing fees for restraining orders are waived if the petition alleges that acts would constitute stalking or criminal sexual conduct.

The restraining order issued by the court may require the respondent to cease the harassing conduct or to have no contact with the petitioner for up to two years. Relief granted may be longer (for up to 50 years) if there have been multiple violations or orders.

The first violation of the restraining order is punishable as a misdemeanor, and certain repeat violations are punishable as a gross misdemeanor or felony, depending on the number of violations within a designated period of time. [Minn. Stat. § 609.748](#).

Felony penalties also apply to persons who violate an order in any of the following ways:

- by falsely impersonating another
- while possessing a dangerous weapon
- against a victim under age 18, if the respondent is more than 36 months older than the victim
- with an intent to influence or tamper with a juror or judicial proceeding or officer of the court in connection with judicial proceedings
- because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability, age, or national origin

[Minn. Stat. § 609.748](#).<sup>2</sup>

**Victim Notification System on Inmate Status.** A 1997 session law required the Department of Corrections to maintain a toll-free call center for victims to check on inmate status and location. The purpose of the notification system is to reduce harassment of the victim. [Laws 1997, ch. 239](#), art. 1, § 12, subd. 5. Due to subsequent government reorganizations of victim services, part of this telephone service currently is administered by the Department of Public Safety (Office of Justice Program) and is known as the VINE (Victim Information and Notification Everyday) service. VINE monitors the custody status of offenders in county jails and local detention facilities (1-877-MN-4-VINE or [www.vineline.com](#)). For offenders in a state correctional facility, the Department of Corrections provides notification updates through MNChoice ([www.minnesotachoice.com](#)).

**Training on Harassment Crimes.** Three separate provisions require professional training on harassment crimes. These laws require the state supreme court to provide training to district court judges; the Peace Officers Standards and Training (POST) Board to provide training to peace officers; and the county attorneys association, in conjunction with the attorney general's

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<sup>2</sup> If domestic abuse is involved, the victim could seek an order for protection (civil relief) or the court in a criminal case may issue a no contact order. [Minn. Stat. §§ 518B.01; 629.75](#). To assist law enforcement in enforcing these orders, a data communications network between justice agencies must include these orders and no contact orders must be accompanied by a photograph of the offender, if available and verified by the court. [Minn. Stat. § 299C.46](#). See also the House Research information brief, "[Domestic Abuse Laws in Minnesota](#)," November 2012.

office, to provide training to city and county attorneys. [Minn. Stat. §§ 480.30; 626.8451](#), subd. 1a; and [Laws 1993, ch. 326](#), art. 2, § 32.

## **Victim Notification Provisions**

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**Notice of Victim Services.** The Commissioner of Corrections, in cooperation with the executive director of the Crime Victims Reparations Board, must develop a plan to provide victims with notice of those victim services that exist in the geographic area where the crime occurred. [Minn. Stat. § 611A.02](#).

**Notice of Victim Rights.** Minnesota law requires the distribution of two model notices of crime victim rights. The initial notice must be distributed by peace officers to victims at the time of initial contact with the victim. This notice must inform victims of:

- their right to apply for reparations;
- their right to request that data disclosing their identity be kept private;
- the nearest crime victim assistance program or resource;
- their right to participate in the criminal justice process and to request restitution; and
- if the victim is a victim of domestic abuse, the right to receive notice of the defendant's pretrial release and upcoming court dates.

The supplemental notice must be distributed by prosecutors within a reasonable time after charges are filed, informing victims of their rights under the victim rights laws including:

- the right to request restitution;
- the right to be notified of plea negotiations;
- the right to be present at the sentencing hearing and to object orally or in writing to a proposed plea agreement or disposition; and
- the right to be notified of the final case disposition.

[Minn. Stat. § 611A.02](#), subd. 2.

**Higher Education Institution Sexual Harassment and Violence Policy.** Higher education institutions are mandated (and the University of Minnesota is requested<sup>3</sup>) to adopt sexual harassment and violence policies that, among other things, inform victims of their rights under the state crime victim bill of rights law. The school's policy must apply to criminal incidents

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<sup>3</sup> The law's application to the University of Minnesota is a request, rather than a mandate, due to the university's status as a constitutionally autonomous legal entity. [Minn. Const. art. XIII](#), § 3.

occurring on school property and involving a student or employee of the school. The policy for sexual assault cases must, at a minimum, include provisions for the following:

- filing criminal charges with local law enforcement officials
- obtaining the prompt assistance of campus authorities in notifying appropriate law enforcement and disciplinary authorities of a sexual assault incident
- investigating and resolving complaints by campus disciplinary authorities
- ensuring the victim's participation in and the presence of the victim's attorney or other support person at any campus disciplinary proceeding concerning the complaint
- providing notice to the victim of the outcome of the proceeding, consistent with data practices laws
- assisting campus authorities, at the direction of law enforcement authorities, in obtaining and maintaining evidence and relevant materials in connection with the incident
- assisting with measures designed to shield the victim from unwanted contact with the alleged assailant

[Minn. Stat. § 135A.15.](#)

**Notice of Bail Hearings.** When a court is scheduled to review the pretrial detention of a person arrested or detained for domestic abuse, harassment/stalking, violation of an OFP, or violation of a domestic abuse no-contact order, the court must make a reasonable good faith effort to notify the victim of the time and place of the review and the fact that the victim and the victim's family may attend the review. At the review, the prosecutor shall present relevant information involving the victim's account of the alleged offense. [Minn. Stat. § 629.72](#), subds. 2 and 7.

**Notice of Release from Pretrial Detention.** Before releasing a person arrested or detained for domestic abuse, harassment/stalking, violation of an OFP, or violation of a domestic abuse no-contact order, the custodial law enforcement agency must make a reasonable and good faith effort to orally inform the alleged victim, other involved law enforcement agencies, and, if requested by the victim, any battered women's and domestic abuse program or sexual assault program of the following matters:

- the time of the release
- any conditions imposed on the release
- the time and place of the next court appearance and the victim's right to attend
- the location and telephone number of the area battered women's shelter or sexual assault program, if appropriate

The law enforcement agency also is required to mail written notice of the above information to the alleged victim as soon as practical after the release. [Minn. Stat. §§ 629.72](#), subd. 6; [629.725](#); and [629.73](#).

**Notice of Decision Not to Prosecute Domestic Assault, Harassment, or Criminal Sexual Conduct.** Prosecutors must make reasonable efforts to notify a victim of domestic assault, harassment, or criminal sexual conduct by telephone or by mail if they decide to decline prosecution of the case or to dismiss charges. If the suspect is still in custody, the notification attempt must be made before the suspect is released. Additionally, prosecutors who dismiss domestic assault, harassment, or criminal sexual conduct charges must state the specific reasons for the dismissal on the record. If the dismissal is due to witness unavailability, the prosecutor must indicate the specific reason why the witness is unavailable. Finally, the prosecutor must inform the victim of the availability of alternative avenues of civil relief (i.e., restraining or protective orders). [Minn. Stat. § 611A.0315](#).

**Notice of Plea Bargain Agreements.** Prosecuting attorneys must make a good faith effort to inform crime victims of the contents of plea bargain agreements before presenting the plea agreement to the court. The prosecutor also must inform the victim of his or her right to be present at the sentencing hearing to express in writing any objections the victim may have to the proposed disposition. If the victim is not present at the hearing but has communicated these objections to the prosecutor, the prosecutor shall communicate the objections to the court. [Minn. Stat. §§ 611A.03](#) and [611A.0301](#).

**Notice of Change in Court Schedule.** Prosecutors must make reasonable efforts to provide advance notice of any change in the court's proceedings to any victim who has been subpoenaed or requested to testify. [Minn. Stat. § 611A.033](#).

**Notice of Rights at Sentencing and Plea Presentation Hearing.** A probation officer conducting a presentence investigation of a convicted person must notify the victim of the following events and the victim's rights related to the sentencing or plea presentation hearing:

- the charge of which the defendant has been convicted or to which he or she has pled guilty
- the victim's right to request restitution
- the time and place of the hearing and the victim's right to be present at it
- the victim's right to object in writing to the proposed disposition prior to the time of sentencing

[Minn. Stat. § 611A.037](#).

**Notice of Final Case Disposition.** Prosecutors must make a reasonable and good faith effort to provide identifiable crime victims with a written or oral notice of the final disposition of the case within 15 working days after conviction, acquittal, or dismissal. However, if the prosecutor contacts the crime victim in advance of final case disposition and notifies the victim of the

victim's right to receive this information, the prosecutor only has to notify those victims who indicate in advance their desire to be notified of the final disposition. [Minn. Stat. § 611A.039](#).

**Notice of Modification of Sentence.** The court or its designee must make a reasonable and good faith effort to notify a crime victim when the court is considering modifying the sentence for a felony, a crime of violence, or an attempted crime of violence. If the victim is incapacitated or deceased, the notice must be given to the victim's family, and if the victim is a minor, notice must be given to the victim's parent or guardian. The notice must include the location, date, and approximate time of the review; the name and telephone number of a person to contact for additional information; and a statement that the victim and victim's family may provide input to the court concerning sentence modification. [Minn. Stat. § 611A.039](#), subd. 1.

**Notice of Pending Appeal and Final Decision on Appeal.** Prosecutors must make a reasonable and good faith effort to provide notice of a pending appeal to each affected crime victim within 30 days of when the respondent's brief was filed. 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 telephone number of a person who may be contacted for additional information. Prosecutors also must make a reasonable and good faith effort to notify a crime victim within 15 working days of a final decision on an appeal. The notice must explain what effect, if any, the decision has upon the judgment of the trial court. Victims who have previously indicated a desire not to be notified are excepted from these notice requirements. [Minn. Stat. § 611A.0395](#).

**Notice of Offender Release from Confinement.** The Commissioner of Corrections or other custodial authority must make a good faith effort to notify the victim, on request, that an adult or juvenile offender is to be:

- released from imprisonment or incarceration, including release on work release or extended furlough;
- released from a facility in which the offender was confined due to incompetency, mental illness or deficiency, or civil commitment as mentally ill and dangerous; or
- reduced to a lower custody status.

The notice given to a victim of a felony crime against the person must occur 60 days before the offender's release, transfer, or change to minimum security status if the offender was sentenced to prison for more than 18 months. The notice given to a victim of any crime against the person also must include the conditions governing the offender's release and either the identity of the supervising corrections agent or a means to identify the supervising court services agency. All identifying information about the victim, including the victim's request for the notice and the notice of release are classified as private data under the Minnesota Government Data Practices Act. [Minn. Stat. § 611A.06](#); *see also id.* [§ 244.05](#), subd. 5, para. (c).

Additionally, custodial authorities must notify victims of crimes of violence, harassment/stalking, domestic abuse, and sexual assault when the alleged offender is released

from pretrial detention. This notice must inform the victim of the conditions of release and of the time and place of the next scheduled court hearing. [Minn. Stat. §§ 629.72; 629.725; and 629.73.](#)

**Notice of Right to Request Notice of Release.** In every case in which there is an identifiable crime victim, the court must make reasonable efforts at the time of sentencing or disposition to inform the victim of the right to request notice of the offender's release from confinement. If the victim is a minor, this notice must be given to the minor's parent or guardian. [Minn. Stat. § 611A.0385.](#)

**Notice of Release of Predatory Offender.** At least 60 days before a predatory offender's release, the Commissioner of Corrections must send written notice of the impending release to the victim of the crime for which the inmate was convicted or to a deceased victim's next of kin, if the victim or deceased victim's next of kin requests the notice in writing. A written notice of the impending release also must be sent to any witnesses who testified against the inmate in any court proceedings involving the offense, if the witness requests the notice in writing, and to any person specified by the prosecuting attorney. The notice that is sent to victims must inform the person that he or she has the right to request and receive information about the offender under the community notification law. The notice to victims provided by this law does not limit a victim's right to request notice of release under [Minnesota Statutes, section 611A.06. Minn. Stat. § 244.053.](#)

**Community Notification Law; Disclosure of Information on Predatory Offender.** The law enforcement agency in the area where a predatory offender resides or expects to reside, is employed, or is regularly found, must disclose information about the offender to victims of the offender's offense who have requested disclosure. [Minn. Stat. § 244.052, subd. 4.](#)

**Notice of Information Regarding Predatory Offender on Probation.** A probation officer or court services officer who is assigned to supervise a predatory offender who is given a stayed sentence by the court under a departure from the sentencing guidelines, must provide written notice to a victim of, and any witnesses to, an offense committed by the offender, if the victim or the witness has requested notice. [Minn. Stat. § 244.10, subd. 8.](#)

**Notification of Civil Commitment Petition and Release.** A county attorney, who files a civil commitment petition alleging that a person is mentally ill and dangerous, has a sexual psychopathic personality, or is a sexually dangerous person, must make a reasonable effort to notify victims of the petition and resolution. The head of the treatment facility must notify victims that the person may be discharged or released and that the victim has the right to submit a written statement regarding the release decision. A victim may request these notifications electronically through the Department of Corrections' electronic victims notification system or by writing to the county attorney in the county where the conviction for the crime occurred. [Minn. Stat. § 253B.18, subd. 5a.](#)

**Notice of Escape.** The Commissioner of Corrections or other custodial authority must make all reasonable efforts to notify a victim if an offender escapes from imprisonment or confinement. This notice must be given to any victim who has previously requested notice of the offender's release and must occur, if possible, within six hours after the escape is discovered. The victim



also must be notified, if possible, within 24 hours after the offender is apprehended. [Minn. Stat. § 611A.06](#), subd. 3.

**Notice of Expungement Provisions and of Offender's Request to Expunge Records.** In every case in which there is an identifiable crime victim, the court must make reasonable efforts at the time of sentencing or disposition to inform the victim of the expungement provisions in Minnesota law. Additionally, prosecutors must make reasonable efforts to notify victims, on request, when an offender seeks expungement of the offender's record. The prosecutor must give the victim a copy of the expungement petition and notify the victim of the right to be present at the hearing and to make an impact statement there. [Minn. Stat. §§ 611A.0385](#) and [611A.06](#), subd. 1a.

**Notice Concerning Sexually Transmitted Diseases; Emergency Contraception; Prophylactics.** Minnesota law requires hospitals to give information about sexually transmitted diseases to sexual assault crime victims whom they treat. This notice must inform the victim of the risk of contracting sexually transmitted diseases as a result of the sexual assault, the symptoms of these diseases, recommendations for periodic testing, where appropriate, and locations where confidential testing is done. [Minn. Stat. § 611A.20](#).

Hospital emergency rooms are required to provide a minimum standard of care to female and male sexual assault victims. For all victims, the hospital must provide information about prophylactic antibiotics for treatment of sexually transmitted diseases and immediately provide treatment upon request. For female victims, the hospital must also provide information about emergency contraception and provide it upon request. This latter provision is not mandatory if the female victim has a positive pregnancy test. [Minn. Stat. §§ 145.4711](#) to [145.4713](#).

**Notice Concerning HIV Testing of Convicted Offender.** A victim may get a court order requiring a convicted violent crime offender to have an HIV test and to release the results to the victim. Testing is required only if there is evidence that the crime involved circumstances under which the HIV virus might have been transmitted. [Minn. Stat. § 611A.19](#). Sexual assault counselors and others must notify victims of this right. [Minn. Stat. § 611A.20](#), subd. 2. Insurers may not use a test administered under [Minnesota Statutes, section 611A.19](#), or any HIV test conducted on a crime victim to make an underwriting decision and may not ask a victim or offender if they have had such a test. [Minn. Stat. § 72A.20](#), subd. 29.

**Notice to Victims of Motor Vehicle Theft.** Law enforcement agencies must make reasonable efforts to notify the victim of a reported vehicle theft within 48 hours after the vehicle is recovered. The notice must specify when the agency expects to release the vehicle and where the owner may pick it up. The law also requires dismissal of any traffic violation citation given to the owner of a stolen vehicle if the owner presents, by mail or in person, verification that the vehicle was stolen at the time of the violation. [Minn. Stat. § 169.042](#). (See Fund for Emergency Needs of Crime Victims)

**Notice to Parents in Custody Order; Child Crime Victim.** A custody order must give each party the right to access police reports about minor children. In addition, each parent is required to notify the other parent if the minor child is the victim of an alleged crime, including the name of the investigating officer or agency. There is no duty to notify a parent who is the alleged

perpetrator. The law provides alternatives to direct notifications if there is a protection order in place or a party is in the Safe at Home program. [Minn. Stat. § 518.17](#), subd. 3.

## **Victim Participation in the Criminal Justice System**

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**Victim Input Regarding Pretrial Diversion.** Prosecutors must make every reasonable effort to notify and seek input from the victim before referring persons accused of certain serious crimes into a pretrial diversion program in lieu of prosecution. [Minn. Stat. § 611A.031](#).

**Victim Input Regarding Plea Bargain Agreement.** A victim has the right to express orally or in writing any objections he or she may have to the contents of a plea agreement that the prosecutor is presenting to the court in a plea presentation or sentencing hearing. If the victim requests, or is not present at the hearing, the prosecutor must present the victim's objection to the court. [Minn. Stat. §§ 611A.03](#); [611A.0301](#); and [611A.038](#).

**Victim's Right to Request a Speedy Trial.** A victim has the right to ask the prosecutor to make a speedy trial demand under the criminal procedure rules and, thereby, cause the trial to begin within 60 days. The prosecutor must make reasonable efforts to comply with the victim's request. If the victim is a vulnerable adult, the state may move for a speedy trial. [Minn. Stat. § 611A.033](#).

**Right to the Presence of a Supportive Person at Pretrial Hearing or Trial.** A minor who is a prosecuting witness in a criminal case involving assault or another violent crime may choose to be accompanied by a supportive person at the omnibus or pretrial hearing and at trial. Adult prosecuting witnesses in criminal sexual conduct cases likewise have the right to the presence of a supportive person at the omnibus or pretrial hearing. If the supportive person has also been called as a witness, the court may nonetheless permit him or her to be present if it finds that there is no substantial risk that the supportive person's later testimony will be influenced by his or her presence at the proceeding. [Minn. Stat. § 631.046](#). Crime victims who are testifying in juvenile delinquency proceedings have a similar right to the presence of a supportive person; however, the supportive person may not also be a witness scheduled to testify in the proceedings. [Minn. Stat. § 260B.163](#), subd. 3.

**Victim Impact Statement in the Presentence Investigation Report (PSI).** Every presentence investigation report must contain a "victim impact statement" consisting of the following information:

- a summary of the damages or harm and any other problems generated by the criminal occurrence
- a concise statement of what disposition the victim deems appropriate for the defendant, including the reasons given, if any, by the victim in support of his or her opinion
- an attachment to the report consisting of the victim's written objections, if any, to the proposed disposition if these objections are given to the preparer of the report sufficiently in advance of the disposition

[Minn. Stat. § 611A.037.](#)

**Victim’s Right to Make a Statement at Sentencing or Plea Presentation Hearing.** Victims have the right to submit an impact statement to the court at the time of the plea presentation hearing and the sentencing or disposition hearing. The victim may choose whether to make the impact statement orally or in writing. If the victim requests, the prosecutor must present the statement orally to the court. The victim’s statement may address the harm, trauma, or economic loss suffered by the victim as a result of the crime, and the victim’s reaction to the proposed plea agreement, sentence, or disposition. [Minn. Stat. §§ 611A.0301 and 611A.038.](#)

**Community or Neighborhood Impact Statements.** A representative of a community affected by a crime may submit a victim impact statement that describes the adverse social or economic effects the offense has had on persons residing and businesses operating in the community where the offense occurred. [Minn. Stat. § 611A.038.](#)

Additionally, persons who conduct presentence investigations of defendants convicted of drug sale or distribution felonies must make reasonable efforts to include a “neighborhood impact statement” in the presentence investigation report. This neighborhood impact statement may describe any adverse social or economic effects the defendant’s crime has had on persons who reside in the neighborhood where the crime was committed. [Minn. Stat. § 609.115](#), subd. 1.

**Victim’s Right to Request Probation Review Hearing.** Victims have 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. [Minn. Stat. § 611A.046.](#)

**Victim’s Right to Make a Statement at Expungement Hearing.** When an offender seeks to expunge his or her criminal record, the victim of the offender’s crime has the right to submit an oral or written impact statement to the court at the expungement hearing summarizing the harm suffered by the victim and the victim’s recommendation on whether expungement should be granted. [Minn. Stat. § 609A.03](#), subd. 4.

**Victim Attendance at Juvenile Delinquency Proceedings.** Although members of the public are usually excluded from juvenile court hearings, victims have the right to attend these hearings. Victims of a child’s delinquent act may attend any related delinquency proceeding the victim chooses, except that the court may exclude any victim:

- as a witness under the Rules of Criminal Procedure; and
- from portions of a certification hearing in order to discuss psychological material or other evidence that would not be accessible to the public.

[Minn. Stat. § 260B.163](#), subd. 1.

**Victim Inspection of Records.** A victim of any delinquent act may obtain the following information in the juvenile delinquency case:

- the juvenile's name and age
- the act and the date of the offense
- the disposition, including dismissal of the petition, diversion, probation, detention, fines, or restitution

[Minn. Stat. § 260B.171](#), subd. 4, cl. (c).

**Victim's Right to Peace Officer Records on Juveniles.** Victims or their representatives have the right to submit a written request to a prosecuting authority for investigative data collected by a law enforcement agency. Victims' requests may be denied if they would (1) violate the law on release of child abuse videotapes; (2) interfere with the investigation; or (3) are prompted by a desire to engage in unlawful activities. [Minn. Stat. § 260B.171](#), subd. 5, cl. (h).

**Criminal Sexual Assault Victims; Polygraphs.** Law enforcement officers and prosecutors are prohibited from requiring a sexual assault victim to submit to a polygraph exam as part of or a condition to proceeding with the investigation, charging, or prosecution of the crime. A polygraph exam may be conducted if the victim provides written, informed consent and has had the opportunity to consult with a sexual assault counselor. [Minn. Stat. § 611A.26](#).

**Witness testimony; counselors and advocates.** Sexual assault counselors may not be allowed to disclose information received from or about a victim without the victim's consent. If good cause exists, the court may compel the counselor to disclose information related to child protection or termination of parental rights proceedings. Similarly, a domestic abuse advocate may not be compelled to disclose information from or about the victim without the victim's consent unless ordered by the court. [Minn. Stat. § 595.02](#), subd. 1, paras. (k) and (l).

## **Victim/Witness Assistance Programs**

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### **Crime Victim Services in the Office of Justice Programs**

[Minnesota Statutes, chapter 611A](#), contains numerous statutes relating to victim services and assistance programs under which victims may obtain financial assistance and assistance with the enforcement of their rights. See e.g., [Minn. Stat. §§ 611A.201](#) to 611A.78. The state agency structure under which these programs are administered has changed significantly in recent years and most of these statutes no longer reliably describe the programs they reference or the state agencies that administer them.<sup>4</sup> In most cases, no amendments were made to the relevant statutes

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<sup>4</sup> These administrative changes began in 1998, when Governor Carlson issued a reorganization order that transferred the crime victim services functions of the Department of Corrections, the Department of Administration, and the Department of Public Safety (DPS) to the Office of Crime Victim Ombudsman and, ultimately, to a new office known as the Center for Crime Victim Services. In 2003, Governor Pawlenty consolidated crime victim services further by creating, within DPS, the Crime Victim Services Unit in the Office of Justice Programs. In addition, the unit was given authority over the crime victim programs consolidated under the earlier reorganization order as well as additional programs transferred from the Department of Economic Security (juvenile justice programs), the Department of Education (abused children grant programs), and the Minnesota Planning Agency

in [chapter 611A](#) to reflect these administrative reorganizations. To avoid confusion and the citation of superseded statutes, the following discussion of crime victim assistance programs is based on the explanation of agency programs provided by the Office of Justice Programs within DPS<sup>5</sup> and refers to the statutes superseded by the executive reorganization orders only in the accompanying footnotes.

**Grants to Local Programs Providing Assistance to Crime Victims.** The Crime Victim Grants Team administers and distributes state and federal funds to agencies throughout the state to provide direct advocacy services to crime victims. The type of program services provided by these agencies include:

- domestic violence programs, which provide intervention, shelter, emergency housing, support, and advocacy services to victims of domestic abuse and their children;<sup>6</sup>
- sexual assault programs, which provide advocacy and support services for victims of sexual assault, including crisis intervention, assistance during medical procedures, investigation and court activities, and assistance in accessing services;<sup>7</sup>
- general crime victims programs, which provide services to victims of other types of crime, such as homicide, assault, robbery, burglary, theft, and identity theft;<sup>8</sup>
- abused children programs, which provide advocacy and assistance services to victims of child abuse and neglect;<sup>9</sup>
- child advocacy centers, which provide a comprehensive, multidisciplinary team response to allegations of physical and sexual child abuse in a dedicated child-friendly setting;<sup>10</sup>
- parenting time centers, which provide a safe environment for parenting time, visitation, or exchange of children at a neutral site;<sup>11</sup> and

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(crime statistics). The legislature also has contributed to these administrative changes by enacting legislation terminating numerous advisory councils located throughout state government, including many located within the crime victim services area. Certain positions and programs have been eliminated due to budget reductions (e.g., [Minn. Stat. § 611A.201](#)).

<sup>5</sup> See <https://dps.mn.gov/divisions/ojp/grants/pages/crime-victim-services-programs-funded.aspx>.

<sup>6</sup> See [Minn. Stat. §§ 611A.31](#) to 611A.36.

<sup>7</sup> See [Minn. Stat. §§ 611A.21](#) to 611A.221. The sexual assault advisory council expired June 30, 2003.

<sup>8</sup> See [Minn. Stat. §§ 611A.41](#) to 611A.43.

<sup>9</sup> See [Minn. Stat. § 119A.04](#), subd. 4.

<sup>10</sup> See [Laws 2007, ch. 54](#), art. 1, § 18.

<sup>11</sup> See [Minn. Stat. § 119A.37](#).

- emergency grant programs, which provide funds to meet the emergency needs of victims, such as paying for moving expenses, temporary shelter, transportation to court hearings, and home security enhancements.<sup>12</sup>

**Crime Victim Reparations.** Under this program, reparations are awarded to compensate victims and their families for losses suffered due to violent crime. The program also provides training to service providers and advocates about the reparations program. Decisions on reparation claims are made by program staff and a five-member reparations board appointed by the Commissioner of Public Safety. [Minn. Stat. §§ 611A.51 to 611A.67](#).

**Crime Victim Justice Unit.** The Crime Victim Justice Unit provides information and assistance to help crime victims navigate the criminal justice system. It also investigates complaints brought by victims who allege their rights have been violated or that they have otherwise been mistreated by the criminal justice system. Prior to the most recent reorganization, the Office of Crime Victim Ombudsman provided these services.<sup>13</sup> See [Minn. Stat. §§ 611A.72 to 611A.74](#).

**State Policy on Services to Crime Victims.** Minnesota law states that, in furtherance of the state's policy of zero tolerance for violence found in Minnesota Statutes, section 1.50, the state should provide every victim of violence in Minnesota, and every child who is a witness to abuse, access to necessary services. Necessary services include the following:

- crisis intervention services
- safe housing
- counseling
- assistance in pursuing legal remedies and medical care
- crisis child care
- safe and supervised parenting time or neutral exchange locations

[Minn. Stat. § 15.87](#).

**Crime Victim Services Hotline.** The Department of Public Safety must establish and operate a 24-hour telephone line to provide referrals for crime victim services. [Minn. Stat. § 611A.76](#).

**Crime Victim Mediation Programs.** The Crime Victim Services Unit may award grants to nonprofit organizations to create or expand mediation programs for crime victims and offenders. Eligibility is limited to the mediation of nonviolent crimes in which the victim was not a family or household member of the offender. [Minn. Stat. § 611A.77](#).

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<sup>12</sup> See [Minn. Stat. § 611A.675](#).

<sup>13</sup> <https://dps.mn.gov/divisions/ojp/help-for-crime-victims/pages/crime-victim-rights-enforcement.aspx>



**Restorative Justice Programs.** Community-based organizations, in collaboration with local governmental units, have authority to establish restorative justice programs. These programs provide a forum where certain individuals charged with or petitioned for having committed an offense meet with the victim and others, including law enforcement officials, prosecutors, and community members. The purpose of the meeting is to discuss the impact of the offense on the victim and the community, to provide victim support, to assign an appropriate sanction for the offender, and to reintegrate the offender into the community. Sentencing courts have authority to order the performance of work service in a restorative justice program as a condition of a stayed sentence or as part of a nonfelony sentence. For first-time juvenile petty offenders, a prosecutor must refer the child to a restorative justice program, so long as the program is available and appropriate and the case does not involve domestic violence or domestic assault. [Minn. Stat. §§ 609.092; 609.125; 609.135](#), subd. 1; and [611A.775](#).

**Trafficking Victims.** The Department of Public Safety is charged with developing a trafficking victims' assistance plan that will coordinate services, such as medical services, housing, education, job training, interpreting services, legal and immigration services, and victim compensation.<sup>14</sup> [Minn. Stat. §§ 299A.78 to 299A.7957](#).

**Sexually Exploited Youth.** A penalty assessment imposed on patrons and promoters for prostitution crimes must be used by law enforcement, prosecutors, and crime victim service organizations to combat sexual exploitation of youth. [Minn. Stat. § 609.3241](#).

**Minimum Fines.** Sentencing courts must impose a minimum fine, equal to 30 percent of the maximum fine authorized by law for the offense, on persons convicted of assault or sexual assault, unless the court makes findings on the record that the offender is indigent or that the fine will cause financial hardship. The fine may not be reduced below \$50; however, the court may substitute community service for the fine. The court must forward 70 percent of the minimum fine proceeds to local victim assistance programs and the remaining 30 percent to the state general fund. If there is no local victim assistance program, the court must forward all of the fine proceeds to the state general fund. Fine proceeds received by local victim assistance programs must be used to provide direct services to victims. [Minn. Stat. § 609.101](#), subds. 2 and 5.

**Prison Wage Contributions.** The Commissioner of Corrections may withhold up to 20 percent of a prison inmate's gross wages for the purpose of contributing to the Crime Victims Reparations Board's account in the state treasury. [Minn. Stat. §§ 241.26 and 243.23](#).

## **Victims of “Bias Crimes”**

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**Reporting of Crimes Motivated by Bias.** Every peace officer must file a report with the head of the officer's department whenever the peace officer has reason to believe that an offender was motivated to commit a crime because of the victim's race, religion, national origin, sex, age, disability, or characteristics identified as sexual orientation. The head of the law enforcement

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<sup>14</sup> Statute also directs the department to establish and maintain a toll-free telephone hotline for trafficking victims. This hotline was eliminated due to funding reductions.



agency must file a monthly report with the Bureau of Criminal Apprehension describing crimes reported under this law, and the Commissioner of Public Safety must file an annual report with the legislature and the Department of Human Rights summarizing the information received. The commissioner may include information in the annual report concerning any additional criminal activity motivated by bias against a group that is not otherwise covered by the statute. [Minn. Stat. § 626.5531](#).

**Peace Officer Training on Bias Crimes.** The POST board must prepare a training course to assist officers in identifying and responding to bias crimes, and in accurately reporting them. The board must update the course periodically, as appropriate. The statute provides that an individual may not be licensed as a peace officer unless the individual has received this training.

Additionally, the POST board must make instructional materials available to chief law enforcement officers for use by existing peace officers for continuing education credit. The board must also seek funding for an educational conference on bias crimes and, if funding is obtained, sponsor the conference on its own or with other public or private groups. [Minn. Stat. § 626.8451](#).

**Prosecutor Training on Bias Crimes.** The county attorneys association, in conjunction with the attorney general's office, must prepare and conduct a prosecutor training course on bias-motivated crimes. The law requires the head of each prosecuting agency to maintain records on the number of prosecutors who have attended the course and the number who have not, and report this information to the attorney general annually. [Minn. Stat. § 8.34](#); [Laws 1994, ch. 636, art. 4, § 40](#).

**Increased Criminal Penalties for Crimes Motivated by Bias.** Minnesota law provides increased criminal penalties for certain crimes if the crime was committed because of the victim's actual or perceived race, color, religion, sex, sexual orientation, disability, age, or national origin. The criminal acts affected include assault, criminal damage to property, harassment, and stalking. [Minn. Stat. §§ 609.2231, subd. 4; 609.595, subs. 1a, 2, and 3; 609.748, subd. 6, para. \(d\), cl. \(2\); and 609.749, subd. 3](#).

**Civil Damages for Bias Offenses.** Any person who is damaged by a bias-motivated offense has a civil cause of action against the offender and is entitled to receive the greater of \$500 or the person's actual damages, including damages for emotional distress. The person may bring the civil action regardless of the existence or outcome of a related criminal proceeding. The law permits the awarding of punitive damages. [Minn. Stat. § 611A.79](#).

**Consumer Violations Against an Elderly or Handicapped Person.** Minnesota law provides a gross misdemeanor penalty for any person who violates laws regarding charitable solicitation, consumer fraud, deceptive trade practices, or false advertising, if the person knows of or has reason to know that his or her conduct is directed at one or more handicapped persons or senior citizens and will cause or is likely to cause a handicapped person or a senior citizen to suffer loss or encumbrance of designated assets or sources of income. The attorney general has statewide jurisdiction to prosecute violations. The attorney general's jurisdiction is concurrent with that of the local prosecuting authority responsible for prosecuting gross misdemeanors in the place where the violation was committed. [Minn. Stat. § 609.2336](#).

## Historical Summary of Victim Rights Legislation: 1974-2012

The following is a chronological summary of victim rights legislation in Minnesota. Details of each law referred to in this section are presented more fully in the topical sections of this information brief.

**1974** The chronology of victim rights legislation in Minnesota began in 1974 with the enactment of the Crime Victims Reparations Act. This legislation offered financial compensation to persons who were injured, killed, or otherwise damaged by the criminal act of a third party. Financed by state appropriations, this act represented one of the first efforts by the state to offer direct aid to crime victims. It was also among the first expressions by the legislature of the notion that the state had a policy interest not only in the successful prosecution of criminal offenders, but also in the welfare of the offender's victim.

The reparations act has been amended almost every year since 1974; however, the amendments have mainly fine-tuned the act's provisions, and the act remains substantially in the same form as it was originally passed. In addition to the reparations act, the 1974 Legislature also created a new program to aid victims of sexual assault.

**1976** In 1976, the legislature made it a crime to tamper with a witness or a potential witness to any legal proceeding. This crime prohibited the use of force, violence, or coercion to prevent or dissuade a witness from attending or testifying at any trial or other legal proceeding.

**1977** The 1977 Legislature directed the Commissioner of Corrections to establish at least two "victim crisis centers" in the state. These centers were statutorily designed to offer direct services to crime victims as well as general educational functions in the geographic area. That year, the legislature also explicitly authorized sentencing judges to order convicted offenders to pay restitution to their victims as a condition of probation.

**1979** In 1979, the legislature enacted a law prohibiting convicted felons from profiting commercially from their crimes. Known colloquially as the "Son of Sam" law, this legislation required persons who enter into contracts with convicted felons regarding the reenactment of the crime in movies, books, or other entertainment forms, to forward the profits of the venture to the Crime Victims Reparations Board for payment to the victims of the offender's crime.

**1981** In 1981, the legislature passed a bill designed to provide funding for victims services from a new source: persons convicted of crimes other than traffic or parking violations. This legislation imposed a fine surcharge of 10 percent of the person's fine

or, if no fine was imposed, a penalty assessment of between \$20 and \$40. The sentencing judge could waive the surcharge or assessment under circumstances of indigency or undue hardship.

- 1983** 1983 was perhaps the most significant year for victim legislation in Minnesota since the passage of the reparations act in 1974. In 1983, the legislature enacted the so-called Crime Victims Bill of Rights, which, among other things, provided crime victims with notice of certain events in the prosecution of the crime of which they were victimized and provided them with certain limited rights of participation in that criminal process. The significance of this legislation lay primarily in the public policy that it expressed: namely, that a criminal prosecution is not solely a matter between the offender and the state, and that the victim has a separate interest in the outcome which, though secondary to that of the state, is nonetheless publicly recognized.
- 1984** The 1984 Legislature shifted its focus from victim involvement in the system back to victim compensation by enacting legislation expanding the authority of sentencing courts to order the payment of restitution and expressing a preference for the use of restitution and other types of noninstitutional sanctions in cases where incarceration is not ordered.
- 1985** In 1985, the legislature further enhanced the usefulness of restitution orders by simplifying the procedure through which the victim may seek civil enforcement of the order in court. The legislature also authorized the Commissioner of Corrections and prison inmates to withhold up to 20 percent of earned prison wages for the purpose of funding victims services programs.
- In response to recommendations made by a Task Force on Crime Victims established by the attorney general, the legislature created a Crime Victim and Witness Advisory Council to centralize the oversight of victims programs, services, and legislation in Minnesota and to advocate for any needed changes. The legislature also created a Crime Victim Ombudsman to investigate possible violations of the rights of individual crime victims or witnesses by the criminal justice system and to act as a liaison between the aggrieved victim or witness and the agency responsible for the complaint.
- 1986** The 1986 Legislature added a number of new rights to the Crime Victims Bill of Rights to further increase the ability of victims to participate in the criminal justice process and achieve satisfaction of restitution orders, and to minimize the potentially adverse effects of the victim's participation in the criminal prosecution.
- 1987** The 1987 Legislature made several changes to the statutes governing victim restitution to broaden their coverage and further simplify their enforcement. The 1987 Legislature also passed new laws designed to further safeguard the personal safety of victims, including a provision requiring notice to domestic assault and harassment victims of an alleged offender's release from pretrial detention. Additionally, the legislature enacted new measures to provide funding for victims services by means of

criminal fine proceeds. And finally, the 1987 Legislature specified that at least one member of the Sentencing Guidelines Commission must have been the victim of a felony-level crime.

**1988** The 1988 Legislature passed a wide variety of crime victim laws. Three of these laws made fairly significant changes or additions to existing law. First, the legislature streamlined the process through which crime victims may make reparations claims under the Son of Sam law by replacing the judicial procedures with administrative procedures. The law was also broadened to permit the use of Son of Sam contract proceeds for financial assistance for minor dependents of the offender and for paying reparations to victims of other offenders' crimes.

Second, the legislature gave crime victims the right to describe their damages and their reaction to the offender's proposed sentence to the sentencing judge orally or in writing. And third, the legislature required law enforcement officials to file reports with the state on crimes believed to have been motivated by "bias" against the victim's race or other group affiliation, and to receive training on the detection of and response to such bias crimes.

**1989** In 1989, the legislature reworked the statutes relating to court-ordered restitution to provide clearer guidance to courts on the types of damages that are compensable through restitution orders and on the process by which compliance with these orders is attained. The 1989 Legislature also continued to address the issue of "bias" crimes by enhancing penalties for committing certain criminal acts when the act is motivated by bias against the victim's race or other group affiliation.

**1990** The 1990 Legislature made four noteworthy changes to the crime victim laws. First, it enhanced legal protections for victims of "harassment" by: (1) increasing criminal penalties for certain types of harassing conduct; (2) creating civil remedies to help victims protect themselves from harassment; and (3) increasing the ability of individuals to keep their identities confidential in certain government records.

Second, it expanded the scope of the Crime Victims Reparations Act to cover certain losses and injuries that had previously been excluded from the act's coverage. Third, it required hospitals to give sexual assault victims information regarding the risk and symptoms of sexually transmitted diseases and the availability of confidential testing for these diseases. And finally, the 1990 Legislature required prosecutors who dismiss domestic assault charges to state the specific reasons for the dismissal on the court record and, where the dismissal was due to witness unavailability, to state publicly the specific reason why the witness was unavailable.

**1991** In 1991, the legislature amended the statutes governing court-ordered restitution to enable courts to extend an offender's probation period if the offender fails to pay the restitution in accordance with the payment schedule and it appears that the restitution will not be fully paid before probation expires. This extension of probation may be for

a one-year period and may be renewed once. The 1991 Legislature also amended the Crime Victims Bill of Rights to require prosecutors to make reasonable efforts to notify victims of final case dispositions and to require custodial authorities to notify victims, on request, if an offender either escapes from confinement, or is transferred to a correctional program with less security.

Finally, the 1991 Legislature made numerous changes to the membership, structure, and duties of the Battered Women Advisory Council and created two new advisory councils within the Department of Corrections: one for victims of sexual assault and one for general crime victims.

**1992** In 1992, the legislature made the following changes to the crime victim laws. First, it required higher education institutions to adopt sexual harassment and violence policies that inform victims of their rights under state law and that contain specific provisions relating to the investigation and resolution of sexual assault incidents occurring on school property and involving students or school employees. Second, it allowed sex crime victims to get a court order requiring convicted offenders to have an HIV test and to release the results to the victim.

Other victim law changes enacted by the 1992 Legislature include: (1) further streamlining of the court-ordered restitution process; (2) increasing the penalty assessment imposed on all convicted offenders (other than traffic law offenders) from 10 percent to 20 percent of the fine imposed; (3) authorizing grants for mediation programs in cases involving nonviolent offenses; (4) creating a statewide 24-hour telephone hotline to provide referrals for crime victim services; and (5) permitting victims of juvenile offenders to have a supportive person present in the courtroom during the victim's testimony.

**1993** The 1993 Legislature extensively revised and strengthened criminal and civil laws protecting victims of harassment. It also made several changes to the crime victim laws, including the following: (1) requiring law enforcement agencies to make reasonable efforts to notify a motor vehicle theft victim that the vehicle has been recovered and how to pick it up; (2) requiring dismissal of any traffic ticket given to the owner of a stolen vehicle if it is shown that the vehicle was stolen at the time of the theft; (3) streamlining procedures for giving victims written notice of their rights; (4) waiving court fees for docketing a restitution order as a civil judgment; (5) expanding the size of the Crime Victim and Witness Advisory Council by one member; and (6) allowing minor prosecuting witnesses to have a supportive person in the courtroom during the witness's testimony in any criminal case involving a violent crime or an assault.

**1994** In 1994, the legislature adjusted the crime victim laws in several ways. It expanded the law prohibiting employer retaliation against victim-witnesses to include all witnesses. It expanded the law requiring notice to sexual abuse victims of an alleged offender's release to include notice to victims of all crimes of violence or attempted crimes of violence. It expanded the law requiring notice to victims of an offender's

release from confinement to include situations where an offender's custody status has been reduced. In addition, it required courts, at the time of sentencing or disposition, to notify victims of the right to request notice of the offender's release from confinement.

The legislature strengthened victims' rights to restitution by prohibiting courts from denying restitution solely on the basis of an actual or prospective civil action or a docketed civil judgment, and by requiring offenders who challenge restitution amounts to produce detailed evidence in affidavit form of the basis for the challenge. The legislature also expanded the right to request that an offender be tested for HIV to include all convicted violent crime offenders and adjudicated juvenile sex offenders.

Finally, the legislature increased the fees and expense reimbursements paid to witnesses in court cases and expanded the time periods within which victims may apply for reparations as follows: crimes must be reported to the police within 30 days of occurrence instead of five; and reparations claims must be filed within two years of the victim's injury or death instead of one year.

- 1995** The 1995 Legislature strengthened laws providing financial assistance to crime victims and witnesses, such as restitution, reparations, emergency financial assistance, and relocation and other protective services for victims and witnesses who are potential targets of intimidation or violence. In addition, the legislature granted immunity to victims of violent crimes in civil lawsuits filed by offenders who are injured in the course of the criminal conduct, provided that the victim used reasonable force as authorized by law.

The legislature also strengthened the rights of crime victims to keep government data concerning them confidential and their rights to require HIV testing of convicted violent and sex offenders and adjudicated juvenile sex offenders. Finally, the legislature clarified the duties of the crime victim ombudsman and mandated that various crime victim advisory councils and mediation programs develop a plan by 1996 to consolidate their services.

- 1996** The 1996 Legislature amended the laws concerning restitution: (1) to provide that restitution orders are not dischargeable in bankruptcy; (2) to require court administrators to notify the Commissioner of Revenue of restitution debts to permit the attachment of tax refunds; (3) to clarify the right of the Crime Victims Reparations Board to collect restitution on a victim's behalf; and (4) to allow government agencies to collect restitution for losses incurred in controlled substance cases. In addition, the legislature set forth the state's goals concerning the necessary services it will strive to provide victims of violent crime.

The legislature expanded the victim notice provisions to require notice of bail hearings to victims of domestic assault and harassment. In addition, the legislature enacted a provision that requires a prosecutor, in a domestic abuse or harassment case, to present relevant information involving a victim's account of an alleged offense to

judges conducting bail hearings. The legislature also created a civil cause of action for victims damaged by bias-motivated crimes. Finally, the legislature, in response to the report produced on the consolidation of victim services required by 1995 legislation, did not consolidate victim services into one agency. Rather, the legislature created a crime victim services roundtable to discuss the delivery and funding of victim services and to present initiatives to the legislature that require legislative action.

**1997** In 1997, the legislature created a felony penalty for certain harassment restraining order violations and clarified that prosecutors do not need to prove specific intent as an element of criminal harassment. Additionally, the legislature amended laws related to restitution to allow courts to require restitution to be paid before fines; to include governmental entities within the definition of “victim”; and to require that, when there is more than one victim of a crime, nongovernmental entities take priority over governmental entities. A working group was created to study methods to improve the collection of restitution.

The reparations law was amended to include acts of international terrorism within its scope and to expand the description of economic loss in the case of injury or death to include household services and child care services that the claimant provided; the description of eligible emergency assistance was expanded to include the cleanup of the crime scene and reimbursement for reasonable travel and living expenses related to a change of venue. The legislature made administrative changes in the grant program for emergency assistance to victims. Also, the legislature changed the appointing authority for the Crime Victim Ombudsman and designated some ombudsman responsibilities.

The legislature created the following notification provisions: (1) prosecutors must notify affected crime victims of a pending appeal and a final decision on appeal; (2) the court or its designee must notify a crime victim when the court is considering modifying the sentence for a felony, a crime of violence, or an attempted crime of violence; and (3) the Commissioner of Corrections is required to implement a victim notification system to allow victims to check on inmate status and location.

The legislature authorized local governmental units to establish restorative justice programs and gave sentencing courts authority to order the performance of work service in a restorative justice program as a condition of a stayed sentence or as part of a nonfelony sentence. The legislature created limited exceptions to the general rules of nondisclosure of juvenile court records and peace officer records on juveniles to allow for disclosure to a victim. The legislature provided a means by which prosecutors can elect not to disclose a victim’s or witness’s address or telephone number in certain cases. The legislature amended the presentence investigation law to allow community victim impact statements. Finally, the legislature provided a gross misdemeanor penalty for designated consumer law violations against elderly or handicapped individuals.



- 1998** In 1998, the legislature increased victim access to juvenile delinquency proceedings and juvenile records. The 1998 Legislature gave community-based organizations, in collaboration with local governmental units, authority to establish restorative justice programs. In addition, the legislature responded to Reorganization Order No. 180, a January 1998 order issued by the governor to consolidate the crime victim service components of the Department of Corrections, Department of Public Safety, and Department of Administration, into the Office of the Crime Victim Ombudsman. This order resulted in the creation of a Center for Crime Victim Services. The legislature acted to ensure that the center: (1) maintain the duties of the crime-specific councils; (2) maintain the current funding allocations; and (3) conduct focus groups to ascertain victim and provider priorities.
- 1999** The 1999 Legislature extended from two years to three years the amount of time a victim has to file a reparations claim. The legislature limited the time period a defendant has to challenge restitution and provided for deposit of unclaimed restitution payments in the general crime victims' account in state treasury for use in crime victims' reparations. In addition, the legislature authorized moving expenses (in certain cases) as an eligible item for which a victim may seek reparations. Finally, the legislature provided that a prosecutor may elect not to disclose a crime victim's or witness's date of birth in a criminal proceeding.
- 2000** The 2000 Legislature addressed the issues of domestic violence and sexual assault prevention by creating an Interagency Task Force on Domestic Violence and Sexual Assault Prevention within the Crime Victim Services Unit. The legislature also required the appointment of a director of domestic violence and sexual assault prevention and outlined the director's wide-ranging duties to develop policies and resources in this area of prevention.
- 2001** The 2001 Legislature required that victims be informed when an offender files a petition seeking expungement of his or her criminal record and gave victims an opportunity to submit an oral or written statement at the expungement hearing regarding the harm the victim has suffered and whether expungement should be granted. The legislature also made numerous changes to the domestic abuse laws, including the establishment of standards for domestic abuse counseling programs and the expansion of special pretrial release rules applicable to domestic abuse and harassment cases.
- 2002** The 2002 Legislature increased criminal penalties applicable to criminal harassment crimes committed against victims under the age of 16 when the act is committed with sexual or aggressive intent, and when the crime is the offender's third or subsequent offense. The legislature also expanded the government's responsibility to pay for medical examination services provided to sexual assault victims, including tests for sexually transmitted disease and pregnancy.

Additionally, the legislature prohibited hotel/motel owners from knowingly renting rooms to level III predatory offenders when the owner simultaneously provides shelter services, under government contract, to domestic assault victims. Finally, the legislature abolished the Office of Crime Victim Ombudsman and transferred its duties to the Center for Crime Victim Services. It also changed the payment structure for subsidizing battered women shelters from a per diem system to a grant program.

- 2003** The 2003 Legislature clarified the law governing county responsibility to pay sexual assault victim's medical examination costs by providing that the county where the crime occurred is responsible regardless of whether the crime was reported to law enforcement or is the subject of a law enforcement investigation. The legislature also expanded the right of victims to make an impact statement during the criminal proceedings by providing that this right applies to plea presentation hearings as well as sentencing hearings. Finally, the legislature provided standards governing a defendant's access to videotapes of child abuse victims.
- 2005** The 2005 Legislature expanded the term "victim" under [chapter 611A](#) to include the family members, guardian, or custodian of a minor or incompetent, incapacitated, or deceased person. The legislature also expanded eligibility for reparations to include victims injured overseas. Additionally, changes were made to the employer retaliation law. It was expanded to include persons who take time off from work to obtain an OFP or restraining order. Notification and verification provisions were also added to the retaliation laws. The legislature implemented victim notification provisions in civil commitment cases and waived the filing fee for a restraining order petition that alleges acts of criminal harassment or criminal sexual conduct. Finally, it imposed a mandatory restitution obligation of not less than \$1,000 for each direct victim of identity theft.
- 2006** In 2006, the legislature implemented human trafficking victim assistance programs and an address confidentiality program for victims of domestic violence, sexual assault, or harassment. These programs were scheduled to begin in 2007. The legislature also expanded the notice provisions when a prosecutor decides not to prosecute a case to include cases involving criminal sexual conduct.
- 2007** The 2007 Legislature expanded the protection against employer retaliation for crime victims to attend criminal proceedings, established minimum standards of care for hospitals providing care to sexual assault victims, established procedures for polygraph examinations of sexual assault victims, authorized emergency grants for victims of vehicle theft to reimburse them for impound fees and towing charges; and provided that a no-contact order in the criminal justice data communication network must be accompanied by a photograph of the offender (when available and court verified).

- 2008** The 2008 Legislature made changes to the Safe at Home program and created a process for obtaining a 50-year order for protection or restraining order after multiple violations or continued threats.
- 2009** In 2009, the legislature added sexual assault victims to the statute requiring prosecutors to provide victims with information on civil protection orders and it added protections to the Safe at Home program. In addition, it created a restorative justice alternative disposition option for certain juvenile petty offenders. (A restorative justice program provides a forum for offenders and victims to discuss the impact of the offense, assign an appropriate sanction, and provide support for victims.)
- 2010** The 2010 Legislature enacted a domestic abuse omnibus bill that contained provisions relating to orders for protection (OFP), domestic abuse no-contact orders (DANCO), witness tampering, stalking, and bail. As part of this omnibus bill, the legislature restructured two provisions in law: (1) criminal harassment was renamed stalking and provisions were expanded to address updates in technology; and (2) the criminal DANCO law was recodified and moved out of the civil order for protection law. In a separate bill, the legislature imposed mandatory restitution for harm or bodily injury to a service animal.
- 2011** In 2011, another mandatory restitution provision was added for harming or killing a public safety dog. The 2011 Legislature also enacted provisions related to sexually exploited youth, including child protection, funding for victim organizations, and a statewide victim services model. It also added protections to the Safe at Home program.
- 2012** The 2012 Legislature enacted Jacob's law. Jacob's law added and amended notification provisions that apply when a child is a crime victim, including notice requirements of parents subject to custody orders and law enforcement notice to social services if a child is a victim of neglect or abuse occurring outside the home. It also expanded the filing fee waiver for restraining order petitions.

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