

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MSC

File No. 1511 ___ Docket No. 5.0009.0100

DATE RECEIVED 8/8/88 ADOPTED W/O HEARING ✓

REVIEW DATE 8/17/88 EMERGENCY RULE ___

DUE DATE 8/22/88 REVISOR APPROVED ✓

APPROVED 8.22.88 mjc REVISOR DISAPPROVED ___

DISAPPROVED ___ FILED W/SEC. OF STATE 8/22/88

WITHDRAWN ___ RETURNED TO AGENCY 8/22/88

✓ Rule as adopted (4 copies)

___ ~~Notice to Solicit Outside Information/Opinion (if applicable)~~

___ ~~Date published in State Register~~

___ ~~Comments~~

___ ~~Petition for Adoption of a Rule (if applicable)~~

✓ Board's Authorizing Resolution

12/22/88 Date adopted

✓ Proposed Rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

611A.56subd6 Statutory Authority

yes Small Business Statement

yes Expenditure of public money statement

yes Signature

✓ Statement of Need and Reasonableness (if applicable)

yes Small Business Statement

n/a Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

___ Date 30/25 days before adoption

___ Notice attached

___ Copy of rule or summary attached

___ Publication in State Register

4/4/88 Date 30/25 days before adoption

___ 180-day deadline from:

___ end of comment period (§ 14.26) (rules without hearing)

___ effective date of statutory authority (§ 14.29) (emergency rules)

___ Resolution Adopting

___ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting

7/22/88 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney

Jeann Graham Name of SAAG representing agency

___ ~~Notice of Submission to Atty. Gen. (if applicable)~~

___ ~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

DEPARTMENT: ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE: August 22, 1988

TO: Jeanne J. Graham
Special Assistant Attorney General
200 Ford Building, Suite 200

FROM: MARTHA J. CASSERLY mjc
Special Assistant Attorney General
515 Transportation Building

PHONE: 6-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Claim Procedures for the Crime Victims Reparation Board

The above-referenced rule has been approved as to its legality by the Attorney General on August 22, 1988.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must establish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:bbl
Enclosures

cc: Maryanne Hruby
William Brown

Department of Public Safety

Crime Victims Reparation Board

Adopted Permanent Rules Relating to Claim Procedures

Rules as Adopted

7505.0100 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Party.** "Party" means any claimant.

7505.0200 PURPOSE.

This chapter is intended to assure that no person before this board shall have his or her rights, privileges, or duties determined without regard to fundamental fairness.

7505.0400 COMMENCEMENT OF CLAIM.

A claim shall be deemed to have been commenced upon receipt by the board of a claim form completed and signed by a claimant or the claimant's representative.

7505.0600 SCOPE OF DISCOVERY.

Subpart 1. **Information obtainable.** Pursuant to the investigation of a claim, the board may obtain from the claimant and other persons all information reasonably related to the validity of the claim, including but not limited to information relating to the following subjects:

A. to E. [Unchanged.]

Subp. 2. **Subpoena.** In the course of an investigation the board may issue subpoenas for the appearance of witnesses or for the production of books, records, or other documents or initiate such other discovery proceedings as by law are allowed.

7505.0700 COOPERATION WITH BOARD, ASSIGNMENT, SUBROGATION.

Failure by a claimant or claimant's representative to complete forms, or otherwise to cooperate with the board's investigation, may constitute a ground for denial of a claim.

The claimant shall assign his or her rights to recover benefits or advantages from any source which is, or if readily available to the claimant would be, a collateral source and which is not deducted from the final award; provided that the assignment shall not exceed the amount of the final award. The claimant shall further agree to cooperate fully with the board in any subrogation action brought by the board or the claimant.

7505.1900 DISQUALIFICATION BY PREJUDICE.

A hearing officer or any board member shall withdraw from participation in a contested case at any time prior to the final determination if he or she deems himself or herself disqualified for any reason. Upon the filing in good faith of a timely and sufficient petition of prejudice the hearing officer shall determine the matter as a part of the record and decision in the case. A withdrawal must be noted in the minutes of the board's monthly meetings.

7505.2700 TREATMENT PLANS.

Subpart 1. **Applicability.** The board, in order to evaluate the reasonableness of treatment provided claimants, shall require suppliers of mental health, physical therapy, chiropractic, medical, and home care services to submit treatment plans before consideration of their charges as a part of a reparations claim when the following time and charges standards apply:

A. if mental health treatment is likely to continue longer than six months after the date the claim is filed and the cost of the additional treatment will exceed $1,500, or if the total cost of treatment in any case will exceed $4,000;

B. if physical therapy treatment is likely to continue longer than three months after the date the claim is filed and the cost of additional treatment will exceed $800, or if the total cost of treatment in any case will exceed $1,500;

C. if chiropractic treatment is likely to continue longer than three months after the date the claim is filed and the cost of additional treatment will exceed $1,000, or if the

total cost of treatment in any case will exceed $1,800;

D. if medical treatment for a single condition or injuries resulting from a single incident is likely to continue longer than three months after the date of injury and the cost of additional treatment will exceed $2,500, or if the total cost of treatment in any case will exceed $4,000; or

E. if licensed home care service, as defined in Minnesota Statutes, section 144A.43, if more than five home visits in total have been or will be delivered, regardless of cost.

The board may request treatment plans for other services provided to the victim if the total cost of the service exceeds $500.

Subp. 2. **Treatment plan contents.** Treatment plans must include, but not be limited to, information concerning the date treatment began and the actual or expected date of termination, the diagnosis of record, measurable treatment goals, and the proposed method for treatment including measurable outcomes, information regarding preexisting conditions, and prognosis.

Subp. 3. **Submission procedures.** Forms for the submission of treatment plans must be provided by the board. Forms will be supplied at the time the board requests certification of charges for treatment provided a claimant. Suppliers shall submit treatment plans, where required by subpart 1, at the time the certificate is returned to the board.

Subp. 4. **Treatment plan updates.** Treatment plans must be revised to reflect current treatment status after the first six months of treatment for which the board has provided compensation and quarterly after that. The board may withhold or deny benefits for failure to submit revisions as required in this subpart.

Subp. 5. **Board action.** The board may use treatment plans to aid in the determination of reasonableness of care, and may grant or deny compensation for a specific service based upon information submitted in a treatment plan. The board may also request a provider of services to revise or restate information

provided in order to meet the board's requirements for compensation.

Subp. 6. **Extension beyond termination dates.** If treatment is likely to continue more than 30 days beyond the projected date of termination submitted in the treatment plan, the provider is responsible for submitting a new treatment plan and a revised termination date. A revision must be considered by the board at its regular monthly meeting. No compensation must be authorized for services rendered more than 30 days beyond a projected termination date without board approval of an extension.

7505.2800 BOARD DETERMINATION OF REASONABLENESS.

Subpart 1. **Board consideration.** The board, in determining reasonableness, shall consider any and all of the following relative to a specific claim, or to a claim for compensation for a specific service:

A. quantity of service proposed or provided;

B. time span and duration of actual or proposed service;

C. adherence of service provider to professional standards, with consideration to ethnic and cultural needs of a claimant;

D. progress of treatment against standards presented to the board in the professional treatment plan, where a plan has been submitted;

E. relationship of provider to claimant; and

F. possible consequences of denial or reparations.

Subp. 2. **Utilization review.** Where the board is unable, due to multiple caregivers or complex treatment issues, to determine reasonableness, it may use the services of outside experts to assist in a determination. This review shall include, but is not limited to:

A. review of clinical records;

B. submission of a questionnaire to the claimant to elicit specific information; and

C. interview or examination of the claimant.

7505.2900 CONTRIBUTORY MISCONDUCT.

The board shall reduce, by a minimum of 25 percent, any claim submitted by or on behalf of a person who the board finds has engaged in any of the following acts or behavior that contributed to the injury for which the claim is filed:

A. used fighting words, obscene or threatening gestures, or other provocation;

B. knowingly and willingly been in a vehicle operated by a person who is under the influence of alcohol or a controlled substance;

C. consumed alcohol or other mood-altering substances; or

D. failed to retreat or withdraw from a situation where an option to do so was readily available.

Any of these provisions may be waived in cases of domestic abuse or sexual assault.

7505.3000 CLAIMS PRORATING.

Subpart 1. **Designation of monthly allotment.** Total annual appropriations, grants, and other funds designated for the payment of claims, excluding an annually determined set-aside for emergency funds, must be equally divided among each month of the fiscal year. The resulting amount is designated the "monthly reparations allotment."

Subp. 2. **Requests in excess of monthly allotment.** If the monthly reparations allotment minus any awards granted on an emergency basis during the 30 days preceding the month in question is less than the total dollar amount of reparations claims eligible for payment in that month, the board shall pay only a portion of each claim approved that month.

Subp. 3. **Payment ratio.** The payment ratio shall equal the monthly reparations allotment minus any emergency awards granted in the preceding month divided by the total dollar amount of reparations awards eligible for payment in that month.

Subp. 4. **Excess allotment.** Where the amount of

reparations awarded during a specific month equals less than the monthly allotment, any excess will be carried forward to the next month and added to the monthly allotment for that period.

Subp. 5. **Claim filing.** The payment ratio of the month in which the claim or supplementary claim is approved is the payment ratio which governs the claim or supplementary claim.

REPEALER. Minnesota Rules, parts 7505.0500; 7505.0800; 7505.0900; 7505.1000; 7505.1100; 7505.1200; 7505.1300; 7505.1400; 7505.1500; 7505.1600; 7505.1700; 7505.1800; 7505.2000; 7505.2100; 7505.2200; 7505.2300; 7505.2400; and 7505.2500, are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 22 1988
Secretary of State

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

AUG 22 1988

Joan Anderson Growe 3:15PM

Secretary of State

APPROVED AS TO FORM AND LEGALITY

August 22 1988

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL



CERTIFICATE OF THE

MINNESOTA CRIME VICTIMS REPARATIONS BOARD

AUTHORIZING RESOLUTION

I, Dr. William Kosiak, do hereby certify that I am a member and the Chair of the Minnesota Crime Victims Reparations Board, a Board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Crime Victims Reparations Board duly and properly called and held on the 17th day of December, 1987, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> "RESOLVED,that Fern Sepler-King, the Executive Director of the Minnesota Crime Victims Reparations Board, is hereby granted the authority and directed to sign and give the Notice of the Board's Proposed Adoption of (a rule without a public hearing) governing The Minnesota Crime Victims Reparations Board to all persons who have registered their names with the Board for the purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 22 day of December 1987.

William Kosiak

Dr. William Kosiak, Board Chair

Nancy Johnson

Attest by one other Board Member

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Claim Procedures

AGENCY: Department of Public Safety

DIVISION: Crime Victims Reparation Board

MINNESOTA RULES: Chapter 7505

The attached rules are approved for publication
in the State Register

Robert P. Kittel

Robert P. Kittel
Assistant Deputy Revisor

Department of Public Safety

Crime Victims Reparation Board

Proposed Permanent Rules Relating to Claim Procedures

Rules as Proposed

7505.0100 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Party. "Party" means any ~~person, including a claimant, whose legal rights, duties, or privileges may be determined in a contested case.~~

~~Subp. 4. Person. "Person" means any individual, partnership, corporation, joint stock company, unincorporated association or society, municipal corporation, joint stock company, unincorporated association or society, municipal corporation, or any government or governmental subdivision, unit, or agency, other than a court of law.~~

7505.0200 PURPOSE.

This chapter is intended to assure that no person before this board shall have his or her rights, privileges, or duties determined without regard to fundamental fairness.

7505.0400 COMMENCEMENT OF CLAIM.

A claim shall be deemed to have been commenced upon receipt by the board of a ~~preliminary~~ claim form completed and signed by a claimant or ~~his~~ the claimant's representative ~~under oath~~.

7505.0600 SCOPE OF DISCOVERY.

Subpart 1. Information obtainable. Pursuant to the investigation of a claim, ~~the member to whom the claim has been assigned or some agent of~~ the board ~~shall~~ may obtain from the claimant and other persons all information reasonably related to the validity of the claim, including but not limited to information relating to the following subjects:

Why did they change this?

A. to E. [Unchanged.]

Approved by Revisor Robert P. Kittel

Subp. 2. Subpoena. In the course of an investigation or a hearing pursuant to part 7505.0900, the member of the board to whom a claim has been assigned may, upon his own motion or the motion of a claimant or the attorney general, issue subpoenas for the appearance of witnesses or for the production of books, records, or other documents or initiate such other discovery proceedings as by law are allowed.

7505.0700 SUPPLEMENTARY INFORMATION COOPERATION WITH BOARD, ASSIGNMENT, SUBROGATION.

After the filing of a claim, the claimant or his representative shall complete under oath and file with the board a supplementary form containing such information as the board or its agent deems relevant to the investigation of the claim. Failure by a claimant or his claimant's representative to complete the supplementary form forms, or otherwise to cooperate with the board's investigation, may constitute a ground for denial of a claim.

The claimant shall assign his or her rights to recover benefits or advantages from any source which is, or if readily available to the claimant would be, a collateral source and which is not deducted from the final award; provided that such the assignment shall not exceed the amount of the final award. The claimant shall further agree to cooperate fully with the board in any subrogation action brought by the board or the claimant.

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Approved
by Revisor ___ _____

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Approved by Revisor _____

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Approved by Revisor _____

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A. used fighting words, obscene or threatening gestures, or other provocation;

B. knowingly and willingly been in a vehicle operated by a person who is under the influence of alcohol or a controlled substance;

C. consumed alcohol or other mood-altering substances; or

D. failed to retreat or withdraw from a situation where an option to do so was readily available.

Any of these provisions may be waived in cases of domestic

How do they decide which will be waived in what situations?

Approved by Revisor _____

abuse or sexual assault.

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Approved
by Revisor _____

March 28, 1988

Department of Public Safety
Driver and Vehicle Services Division

In The Matter of the Proposed Adoption of Rules of the State of Minnesota Crime Victim's Reparations Board governing Crime Victims Reparations, Claims Processing and Determination.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A HEARING

Notice is hereby given that the State Department of Public Safety, Crime Victims Reparations Board is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. Sections 14.22 through 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules. Public comments are encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for comment, and any change proposed. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to the Department of Public Safety and do not result in a substantial change in the proposed language.

If 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the portion of the proposed rule addressed, the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are requested. Any person requesting a public hearing should state his or her name and address. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. Sections 14.131 through 14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a free copy of this notice and/or a free copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

Fern Sepler-King
Executive Director
Minnesota Crime Victims Reparations Board
Suite N465 Griggs-Midway Bldg.
1821 University Avenue
St. Paul, MN 55104

The Department's authority to adopt the proposed rules is contained in Minnesota Statutes, Section 611A.56, subdivision 1(b). A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available free from the Minnesota Crime Victims Reparations Board upon request to the above address.

You are hereby advised, pursuant to Minn. Stat. Section 14.115, "Small business consideration in rulemaking," that the proposed amendments do not directly affect small businesses in Minnesota. In so far as there is an indirect effect on small businesses it is not disportionate to the effect on all business and any adverse impact is outweighed by the necessity for these amendments.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the date of submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. Section 10A.01, Subd. 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5615.

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption, within the meaning of Minnesota Statutes Section 14.11, Subd. 1. Any costs incurred by local jurisdictions in the permit issuance process can be recovered through imposition of a fee authorized by the rules.

A copy of the proposed rules is attached to this notice.

STATE OF MINNESOTA

DATE

PAUL J. TSCHIDA
COMMISSIONER OF PUBLIC SAFETY

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of Rules of the Minnesota Crime Victims Reparations Board

STATEMENT OF NEED AND REASONABLENESS

I. General

The need to adopt these rules arises from the extensive changes in the enabling legislation of the Crime Victims Reparations Board, and the increasing complexity of claims which are subject to the requirements of the Minnesota Crime Victims Reparations Act. The proposed rules are consistent with Minnesota Statutes 611A.51-.67. The repeal of existing rules brings the administrative rules up to date.

These rules are necessary to provide a consistent framework for the awarding and denial of reparations to crime victims under the Crime Victims Reparations Act. The rules have been designed to represent the public interest by implementing closer scrutiny of claims, while at the same time assuring sensitivity to the needs and rights of crime victims and private vendors who receive payments for services through the Reparations Board.

II. Statutory Authority

The board is required by Minn. Stat. Sect. 611A.56, subd. 1(b) to:

> [A]dopt rules to implement and administer sections 611A.51 to 611.67, including rules governing the method of practice and procedure before the board, prescribing the manner in which applications for reparations shall be made, and providing for discovery proceedings. . . .

This provision clearly authorizes the board to adopt rules relating to claim procedures, information requests from service providers, as well as rules relating to prorating of claims and contributory misconduct.

III. Rule-By-Rule Analysis

7505.0100 Definitions

Changes in definitions are intended to create functional definitions which are consistent with existing law.

7505.0400 Commencement of a Claim

This subpart is being changed to reflect the elimination of a supplementary claim form, and the elimination of the requirement that claim forms be notarized.

7505.600 Scope of Discovery

This subpart is being amended to reflect changes in claim processing pursuant to M.S. Sect. 611A.51-67. The change to permissive language is reasonable because it permits the greatest speed and efficiency in making a determination on claim eligibility, and allows for avoidance of collection of unnecessary or duplicative data.

7505.0700 Cooperation with Board, Subrogation, Assignment

This subpart is being revised to assure reasonable consistency with existing claims processing procedures, and is reasonable in that it clarifies the application of the Boards requirement that claimants be cooperative. It is necessary to ensure that claimants understand the scope of cooperation necessary to avoid denial of a claim.

7505.1900 Disqualification by Prejudice

This subpart is being altered to apply to existing board processing of claims, and to allow for clear withdrawal from board decisions at any stage of the process of considering a claim. This section is necessary to assure that claimants will not have their claim considered by a prejudiced board member, and that claimants will have a source of information regarding withdrawal by board members. It is reasonable in that most Board members are involved in the criminal justice system and may have outside knowledge of a case or individual which may cause them to bear prejudice or have a conflict of interest with a claimant.

7505.2700 Treatment Plans.
7505.2700, subpart 1. Applicability.

This subpart is necessary to assure that payments are made only for reasonable services. The Board cannot determine reasonableness without a sufficient amount of information regarding the treatment planned for the victim. This subpart is consistent with requirements imposed by public and private health care insurers, in that larger claims require more thorough investigation. It also recognizes that requirements for such documentation vary with the type of service provided. The subpart is based upon two years of successful experience with requiring treatment plans of mental health providers under M.S. 611A.52, subd. 8. This subpart will assure that professionals requesting payment for services are informed of the basis upon which the Board will request treatment plans,

and of the charges and length of treatment which are considered customary.

7505.2700, subpart 2. Treatment Plan Contents.

This subpart is necessary to inform claimants and service providers of the information which the board will require. The subpart is reasonable because it conforms with existing professional standards required to measure quality of services provided, as well as the need for such services.

7505.2700, subpart 3. Submission Procedures.

This provision is necessary because it provides a mechanism by which professionals who will be required to submit treatment plans may do so. This provision also clarifies the responsibilities of the Board.

7505.2700, subpart 4. Treatment Plan Updates.

This subpart is necessary to protect the public interest through careful monitoring of treatment costs over a moderate length of time and through the imposition of sanctions where service providers fail to provide required updates. It is reasonable in that any form of treatment is subject to change as the result of external factors, unexpected recovery rates, or disclosure of additional problems. This subpart will assure that the Board's continued determination of reasonableness will be based upon current information.

7505.2700, subpart 5. Board Action.

This subpart is necessary to allow the Board to use treatment plans to assure the reasonableness and economy of services provided. It is reasonable in that it permits the Board to make a determination of reasonableness as required in the statute.

7505.2700, subpart 6. Extension Beyond Termination Dates.

This subpart is reasonable because it provides service providers with an opportunity to document a need for unforseen treatment of conditions related to victimization. It also informs the public of the opportunity for expansion of services beyond original projections. It is necessary to guarantee compliance with rules requiring treatment plans and to assure continued assessment of reasonableness by the Board.

7505.2800. Board Determination of Reasonableness.

7505.2800, subpart 1. Board Consideration.

This subpart is necessary to inform the public and private interests of the criteria upon which the Board will

base a finding of reasonableness, and to assure the Board's consistent handling of claims. It is reasonable because it is based on practical considerations such as quantity and necessity of services. It also provides professionally acceptable parameters and sufficient latitude to allow individual concerns, while protecting the right of all claimants to equal consideration of their claims.

7505.7800, subpart 2. Utilization Review.

This subpart is necessary so that highly complex claims are given a fair review by a person qualified to understand the treatment issues relevant to a Board determination of reasonableness. Professional training is often necessary to assess whether services are reasonable. It is reasonable for the Board to assure that determinations of reasonableness in clinically complicated cases are as rigorous as those in simple cases.

7505.2900, Contributory Misconduct.

7505.2900, subpart 1. Contributory Misconduct.

This subpart is necessary to assure consistent consideration and award of reparations claims where the victims may have contributed to the incident through their own misconduct. The Board considers a wide variety of claims with many extenuating circumstances, but has not yet provided any guidelines to claimants as to the specific factors it deems to be contributory misconduct. This subpart provides the public with a clear definition of the acts or omissions which may lead to a reduction or denial of benefits. This subpart provides reasonable criteria for a determination of contributory misconduct because it reflects 12 years of Board decisions regarding the issue of victim contribution. It is also reasonable because the provisions of the section can be waived for specific crimes having facts and causes which may lead to inequitable results. Respect is given to the possibility that certain acts or omissions may occur in concert with, or proximate, to a crime without contributing to its causation.

7505.3000 Claims Prorating

This part is necessary to provide consistent and clearly delineated implementation of appropriation requirements which prohibit the Reparations Board from making reparations awards in excess of its annual appropriation. See 1987 Minn. Laws 2 ch. 358, Section 5, subd. 10, 2402. Subparts provide procedures which guarantee equitable treatment of all claims received and provide for payment of emergency claims without regard to the monthly allotment.

7505.0500, 7505.0800 through 7505.1800 and 7505.2000

through 7505.2500.

These subparts were repealed. This was necessary because the administrative procedures described in these subparts were outdated.

IV. Other Statutory Requirements

Minn. Stat. Section 14.115 requires agencies, when proposing a new rule or amending existing rules which may affect small businesses, to consider certain methods for reducing the impact of the rule on small businesses.

The proposed amendments to the Crime Victims Reparations Board rule indirectly impact small businesses. However, the rule does not affect small businesses disproportionately. The Board considered the impact of the amendments on small businesses and determined that no feasible alternative to the rule exists.

Minn. Stat. Section 14.11, subd. 2 is inapplicable because the proposed amendments will not have any direct and substantial adverse impact on agricultural land. Sections 115.43, subd. 1, 116.07, subd. 6 and 144A.29, subd. 4 are not applicable. Section 16A.128, subd. 1 does not apply because the proposed amendments do not set any fee. Likewise, a fiscal note is not required pursuant to section 3.982 as the rule will not force any local agency or school district to incur costs.

CONCLUSION

Based on the foregoing, the Minnesota Crime Victims Reparations Board's proposed amendments are both necessary and reasonable.

Dated: _____

(Original Signed)
DR. WILLIAM KOZIAK
Chairman, Minnesota Crime
Victims Reparation Board

In the Matter of the Proposed Adoption of the Rule of the State of Minnesota Crime Victims Reparations Board Governing Crime Victims Reparations Claims Processing and Determination

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Judith Malone, being sworn says:

That on the 11th day of April, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt A Rule Without a Public Hearing by depositing in the [State of Minnesota Central Mail System for United States mailing], a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Judith L. Malone
Judith Malone
Administrative Assistant

Subscribed and sworn to before me this 19th day of August, 1988.



have not placed strong emphasis on the credit needs of the community. An institution receiving this rating has mixed rankings surrounding the midrange levels of the performance categories.

(4) "Inadequate" means a financial institution has an unsatisfactory record of helping to meet community credit needs and reaching the target level of developmental loans and developmental investments. The board of directors and management give inadequate consideration to the credit needs of the institution's community. An institution receiving this rating generally ranks below satisfactory in the majority of the performance categories.

(5) "Unsatisfactory" means a financial institution has a substantially inadequate record of helping to meet community credit needs and in reaching the target level of developmental loans and developmental investments. The board of directors and management appear to give little consideration to the credit needs of the institution's community. An institution receiving this rating ranks in the lowest levels of the performance categories.

Department of Public Safety
Crime Victims Reparation Board

Proposed Permanent Rules Relating to Claim Procedures

Notice of Intent to Adopt Rules Without a Hearing

Notice is hereby given that the State Department of Public Safety, Crime Victims Reparations Board is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in *Minnesota Statutes*, Sections 14.22 through 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules. Public comments are encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for comment, and any change proposed. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to the Department of Public Safety and do not result in a substantial change in the proposed language.

If 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the portion of the proposed rule addressed, the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are requested. Any person requesting a public hearing should state his or her name and address. In the event a public hearing is required, the department will proceed according to the provisions of *Minnesota Statutes*, Sections 14.131 through 14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a free copy of this notice and/or a free copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

Fern Sepler-King
Executive Director
Minnesota Crime Victims Reparations Board
Suite N465 Griggs-Midway Bldg.
1821 University Avenue
St. Paul, MN 55104

The Department's authority to adopt the proposed rules is contained in *Minnesota Statutes*, Section 611A.56, subdivision 1(b). A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available free from the Minnesota Crime Victims Reparations Board upon request to the above address.

You are hereby advised, pursuant to *Minnesota Statutes* Section 14.115, "Small business consideration in rulemaking," that the proposed amendments do not directly affect small business in Minnesota. In so far as there is an indirect effect on small business it is not disportionate to the effect on all business and any adverse impact is outweighed by the necessity for these amendments.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the date of submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to the above address.

Please be advised that *Minnesota Statutes* Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. *Minnesota Statutes* Section 10A.01, Subd. 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone (612) 296-5615.

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption, within the meaning of *Minnesota Statutes* Section 14.11, Subd. 1. Any costs incurred by local jurisdictions in the permit issuance process can be recovered through imposition of a fee authorized by the rules.

A copy of the proposed rules is attached to this notice.

Rules as Proposed

7505.0100 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Party.** "Party" means any ~~person, including~~ a claimant~~, whose legal rights, duties, or privileges may be determined in a contested case~~.

~~Subp. 4. **Person.** "Person" means any individual, partnership, corporation, joint stock company, unincorporated association or society, municipal corporation, joint stock company, unincorporated association or society, municipal corporation, or any government or governmental subdivision, unit, or agency, other than a court of law.~~

7505.0200 PURPOSE.

This chapter is intended to assure that no person before this board shall have his or her rights, privileges, or duties determined without regard to fundamental fairness.

7505.0400 COMMENCEMENT OF CLAIM.

A claim shall be deemed to have been commenced upon receipt by the board of a ~~preliminary~~ claim form completed and signed by a claimant or ~~his~~ the claimant's representative ~~under oath~~.

7505.0600 SCOPE OF DISCOVERY.

Subpart 1. **Information obtainable.** Pursuant to the investigation of a claim, ~~the member to whom the claim has been assigned or some agent of~~ the board ~~shall~~ may obtain from the claimant and other persons all information reasonably related to the validity of the claim, including but not limited to information relating to the following subjects:

A. to E. [Unchanged.]

Subp. 2. **Subpoena.** In the course of an investigation ~~or a hearing pursuant to part 7505.0900, the member of~~ the board ~~to whom a claim has been assigned~~ may~~, upon his own motion or the motion of a claimant or the attorney general,~~ issue subpoenas for the appearance of witnesses or for the production of books, records, or other documents or initiate such other discovery proceedings as by law are allowed.

7505.0700 ~~SUPPLEMENTARY INFORMATION~~ COOPERATION WITH BOARD, ASSIGNMENT, SUBROGATION.

~~After the filing of a claim, the claimant or his representative shall complete under oath and file with the board a supplementary form containing such information as the board or its agent deems relevant to the investigation of the claim.~~ Failure by a claimant or ~~his~~ claimant's representative to complete ~~the supplementary form~~ forms, or otherwise to cooperate with the board's investigation, may constitute a ground for denial of a claim.

The claimant shall assign his or her rights to recover benefits or advantages from any source which is, or if readily available to the claimant would be, a collateral source and which is not deducted from the final award; provided that ~~such~~ the assignment shall

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

not exceed the amount of the final award. The claimant shall further agree to cooperate fully with the board in any subrogation action brought by the board or the claimant.

7505.1900 DISQUALIFICATION BY PREJUDICE.

A hearing officer or any board member shall withdraw from participation in a contested case at any time prior to the final determination if he or she deems himself or herself disqualified for any reason. Upon the filing in good faith of a timely and sufficient petition of prejudice the hearing officer shall determine the matter as a part of the record and decision in the case. A withdrawal must be noted in the minutes of the board's monthly meetings.

7505.2700 TREATMENT PLANS.

Subpart 1. **Applicability.** The board, in order to evaluate the reasonableness of treatment provided claimants, shall require suppliers of mental health, physical therapy, chiropractic, medical, and home care services to submit treatment plans before consideration of their charges as a part of a reparations claim when the following time and charges standards apply:

A. if mental health treatment is likely to continue longer than six months after the date the claim is filed and the cost of the additional treatment will exceed $1,500, or if the total cost of treatment in any case will exceed $4,000;

B. if physical therapy treatment is likely to continue longer than three months after the date the claim is filed and the cost of additional treatment will exceed $800, or if the total cost of treatment in any case will exceed $1,500;

C. if chiropractic treatment is likely to continue longer than three months after the date the claim is filed and the cost of additional treatment will exceed $1,000, or if the total cost of treatment in any case will exceed $1,800;

D. if medical treatment for a single condition or injuries resulting from a single incident is likely to continue longer than three months after the date of injury and the cost of additional treatment will exceed $2,500, or if the total cost of treatment in any case will exceed $4,000; or

E. if licensed home care service, as defined in *Minnesota Statutes*, section 144A.43, if more than five home visits in total have been or will be delivered, regardless of cost.

The board may request treatment plans for other services provided to the victim if the total cost of the service exceeds $500.

Subp. 2. **Treatment plan contents.** Treatment plans must include, but not be limited to, information concerning the date treatment began and the actual or expected date of termination, the diagnosis of record, measurable treatment goals, and the proposed method for treatment including measurable outcomes, information regarding preexisting conditions, and prognosis.

Subp. 3. **Submission procedures.** Forms for the submission of treatment plans must be provided by the board. Forms will be supplied at the time the board requests certification of charges for treatment provided a claimant. Suppliers shall submit treatment plans, where required by subpart 1, at the time the certificate is returned to the board.

Subp. 4. **Treatment plan updates.** Treatment plans must be revised to reflect current treatment status after the first six months of treatment for which the board has provided compensation and quarterly after that. The board may withhold or deny benefits for failure to submit revisions as required in this subpart.

Subp. 5. **Board action.** The board may use treatment plans to aid in the determination of reasonableness of care, and may grant or deny compensation for a specific service based upon information submitted in a treatment plan. The board may also request a provider of services to revise or restate information provided in order to meet the board's requirements for compensation.

Subp. 6. **Extension beyond termination dates.** If treatment is likely to continue more than 30 days beyond the projected date of termination submitted in the treatment plan, the provider is responsible for submitting a new treatment plan and a revised termination date. A revision must be considered by the board at its regular monthly meeting. No compensation must be authorized for services rendered more than 30 days beyond a projected termination date without board approval of an extension.

7505.2800 BOARD DETERMINATION OF REASONABLENESS.

Subpart 1. **Board consideration.** The board, in determining reasonableness, shall consider any and all of the following relative to a specific claim, or to a claim for compensation for a specific service:

A. quantity of service proposed or provided;

B. time span and duration of actual or proposed service;

C. adherence of service provider to professional standards, with consideration to ethnic and cultural needs of a claimant;

D. progress of treatment against standards presented to the board in the professional treatment plan, where a plan has been submitted;

E. relationship of provider to claimant; and

F. possible consequences of denial or reparations.

Subp. 2. **Utilization review.** Where the board is unable, due to multiple caregivers or complex treatment issues, to determine reasonableness, it may use the services of outside experts to assist in a determination. This review shall include, but is not limited to:

A. review of clinical records;

B. submission of a questionnaire to the claimant to elicit specific information; and

C. interview or examination of the claimant.

7505.2900 CONTRIBUTORY MISCONDUCT.

The board shall reduce, by a minimum of 25 percent, any claim submitted by or on behalf of a person who the board finds has engaged in any of the following acts or behavior that contributed to the injury for which the claim is filed:

A. used fighting words, obscene or threatening gestures, or other provocation;

B. knowingly and willingly been in a vehicle operated by a person who is under the influence of alcohol or a controlled substance;

C. consumed alcohol or other mood-altering substances; or

D. failed to retreat or withdraw from a situation where an option to do so was readily available.

Any of these provisions may be waived in cases of domestic abuse or sexual assault.

7505.3000 CLAIMS PRORATING.

Subpart 1. **Designation of monthly allotment.** Total annual appropriations, grants, and other funds designated for the payment of claims, excluding an annually determined set-aside for emergency funds, must be equally divided among each month of the fiscal year. The resulting amount is designated the "monthly reparations allotment."

Subp. 2. **Requests in excess of monthly allotment.** If the monthly reparations allotment minus any awards granted on an emergency basis during the 30 days preceding the month in question is less than the total dollar amount of reparations claims eligible for payment in that month, the board shall pay only a portion of each claim approved that month.

Subp. 3. **Payment ratio.** The payment ratio shall equal the monthly reparations allotment minus any emergency awards granted in the preceding month divided by the total dollar amount of reparations awards eligible for payment in that month.

Subp. 4. **Excess allotment.** Where the amount of reparations awarded during a specific month equals less than the monthly allotment, any excess will be carried forward to the next month and added to the monthly allotment for that period.

Subp. 5. **Claim filing.** The payment ratio of the month in which the claim or supplementary claim is approved is the payment ratio which governs the claim or supplementary claim.

REPEALER. *Minnesota Rules*, parts 7505.0500; 7505.0800; 7505.0900; 7505.1000; 7505.1100; 7505.1200; 7505.1300; 7505.1400; 7505.1500; 7505.1600; 7505.1700; 7505.1800; 7505.2000; 7505.2100; 7505.2200; 7505.2300; 7505.2400; and 7505.2500, are repealed.

Department of Health

Proposed Permanent Rules Relating to Cancer Surveillance System

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Minnesota Department of Health (hereinafter "Department") intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, §§ 14.22 to 14.28 (1986). The statutory authority to adopt the rules is *Minnesota Statutes*, §§ 144.05 (1986) and 144.671 to 144.69 (Supp. 1987).

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

CERTIFICATE OF THE

MINNESOTA CRIME VICTIMS REPARATIONS BOARD

RESOLUTION ADOPTING THE RULE

I, Fern Sepler, do hereby certify that I am the Executive Director of the Minnesota Crime Victims Reparations Board, a [board] duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Crime Victims Reparations Board, duly and properly called and held on the 23rd day of June, 1988, and that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

"RESOLVED, that the rule relating to Crime Victims Reparations, Claims Processing and Determination is approved and adopted, pursuant to authority vested in the Board by Minnesota Statutes Section 611A.56. Fern Sepler, the executive director of the Minnesota Crime Victims Reparations Board, is authorized to sign the finding of fact, conclusions, and order adopting the rule and further is authorized to modify the rule if necessary to obtain the approval of the rule by the attorney general to perform the necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 19th day of August, 1988.

Executive Director

Attest by one other Board Member

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of the Rule of the State of Minnesota Crime Victims Reparations Board Governing Crime Victims Reparations, Claims Processing and Determination

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the State Department of Public Safety, Crime Victims Reparations Board's above-entitled rule was published in the State Register on April 11, 1988 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on April 11, 1988. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after the notice of proposed rulemaking. No requests for a public hearing on the rule were received by the agency.

Based on the comments and evidence in the record before the agency, I find the following:

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as Proposed Permanent Rules Relating to Claim Procedures is adopted this 22nd day of July, 1988, pursuant to authority vested in the Board by Minnesota Statutes, section 611A.56.

Fran Sepler
Executive Director

STATE OF MINNESOTA

MINNESOTA CRIME VICTIMS REPARATIONS BOARD

In the Matter of the
Proposed Adoption of
the Rules of the Minnesota
Crime Victims Reparations Board
Amending the Existing Rule
Governing Claim Procedures

DECLARATION
OF
COUNSEL

I, Jeanne J. Graham, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based upon my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. For Attorney General billing purposes, the four-digit client code is 0106.

DATED: August 5, 1988

Respectfully submitted,

HUBERT H. HUMPHREY, III
Attorney General
State of Minnesota

Jeanne J. Graham

JEANNE J. GRAHAM
Special Assistant
Attorney General
#167368

200 Ford Building
117 University Avenue
St. Paul, MN 55155
(612) 297-4606

Exhibit E

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption
of Rules of the State of Minnesota
Governing The Crime Victims Reparations Board

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 15.0412, subd. 4, that their names be placed on file with and maintained by the State Department of Public Safety, Crime Victims Reparations Board for the purpose of receiving notice of the proposed adoption of rules by this Board is accurate and complete as of 9 :00 ___ A.M., this 11th day of April 1988.



Minnesota Association for Crime Victims
822 South 3rd Street
Suite # 128
Minneapolis, MN. 55415

Battered Women's Coalition
435 Aldine Street
St. Paul, MN. 55104

Sexual Assault Coalition
Sexual Violence Program
University of Minnesota
101 Eddy Hall
192 Pillsbury Drive
Minneapolis, MN. 55455

Minnesota Crime Victim & Witness Advisory Council
Suite N465 Griggs-Midway Building
1821 University Avenue
St. Paul, MN. 55104

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : August 16, 1988

TO : RITA DESMOND
Administration-Finance Division

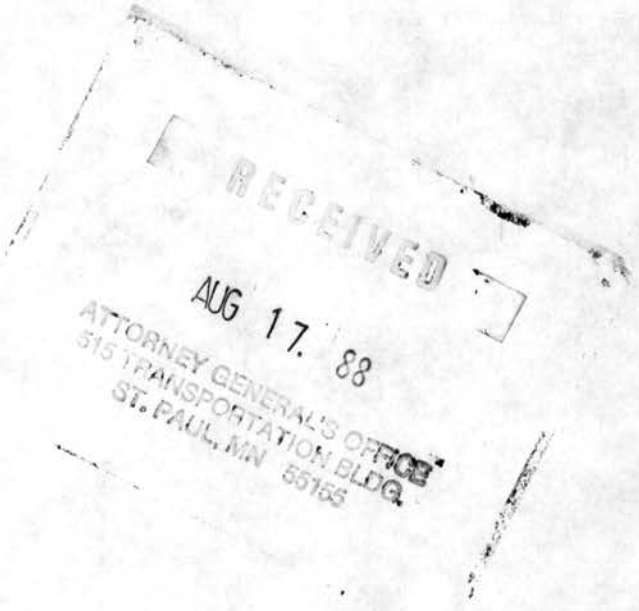
FROM : JEANNE J. GRAHAM
Special Assistant Attorney General

PHONE : 7-4606

SUBJECT : Rules of Crime Victims Reparations Board

As you requested, please find four copies of the adopted rules of the Crime Victims Board. Let me know if you need anything else.

JJG:plp
enc.


RECEIVED
AUG 17 88
ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155