

[Act 1996 No 114]



Victims Rights Bill 1996

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

The following Bills are cognate with this Bill:

Victims Compensation Bill 1996

Sentencing Amendment (Parole) Bill 1996.

Overview of Bill

The object of this Bill is to recognise and promote the rights of victims of crime. The Bill also amends the *Criminal Procedure Act 1986* to re-enact and amend an uncommenced provision of the *Crimes Act 1900* relating to the consideration of victim impact statements when sentences are imposed for serious offences.

* Amended in committee—see table at end of volume.

Outline of provisions

Part 1 Preliminary

Clause 1 specifies the name (also called the short title) of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a day or days to be appointed by the Governor-in-Council.

Clause 3 sets out the object of the proposed Act.

Clause 4 defines expressions used in the proposed Act.

Clause 5 defines the principal expression *victim of crime*. A victim of crime is any person who suffers personal harm or harm to property as a direct result of a criminal offence committed by another person, and includes a member of the immediate family of a victim who dies as a result of such a criminal offence.

Part 2 Charter of Victims Rights

Clause 6 sets out the Charter of rights of victims of crime.

Clause 7 provides that the Charter is to govern, as far as practicable and appropriate, the treatment of victims of crime in the administration of the affairs of the State., Agencies and officials are required to have regard to the Charter to the extent that it is relevant and practicable to do so.

Clause 8 provides that legal rights are not created or affected by the Charter, but provides that breaches of the Charter can be the subject of disciplinary proceedings against officials and complaints to the proposed Victims of Crime Bureau.

Part 3 Victims of Crime Bureau

Clause 9 establishes a Victims of Crime Bureau within the Attorney General's Department.

Clause 10 sets out the functions of the Victims of Crime Bureau, which include providing information and assistance to victims of crime, co-ordinating support services to victims and encouraging their effective and efficient delivery, promoting and overseeing the implementation of the Charter of Victims Rights and receiving complaints from victims about breaches of the Charter and using its best endeavours to resolve the complaints.

Clause 11 provides for special reports to Parliament by the Victims of Crime Bureau.

Part 4 Victims Advisory Board

Clause 12 establishes the Victims Advisory Board.

Clause 13 provides for the membership of the Board (including representatives of the general community, Police Service, Attorney General's Department and other Government agencies).

Clause 14 sets out the advisory and other functions of the Board relating to victims of crime.

Part 5 Miscellaneous

Clause 15 provides that the proposed Act binds the Crown.

Clause 16 enables the making of regulations for the purposes of the proposed Act.

Clause 17 is a formal provision that gives effect to the amendments to the *Criminal Procedure Act 1986* set out in Schedule 2. The clause also makes a consequential repeal of an uncommenced Act.

Clause 18 provides for the review of the proposed Act after 5 years.

Schedules

Schedule 1 contains provisions relating to the membership and procedure of the Victims Advisory Board.

Schedule 2 amends the *Criminal Procedure Act 1986*.

Section 447C of the *Crimes Act 1900* (which relates to victim impact statements for serious offences) was inserted by the *Crimes (Sentencing) Amendment Act 1987*, but has not yet commenced.

Section 17 of the proposed Act repeals the amending Act and Schedule 2 re-enacts the provisions of section 447C in the *Criminal Procedure Act 1986*. The original section will be amended:

- (a) to provide that the Supreme Court may take into account victim impact statements when exercising its functions under section 13A of the *Sentencing Act 1989* to substitute minimum and additional terms of imprisonment for existing life sentences, and
- (b) to provide that a victim impact statement is not mandatory and that the absence of a victim impact statement is not to give rise to an inference that an offence had little or no impact on a victim, and
- (c) to enable family representatives of victims who are dead or incapacitated to act for the victim in connection with giving or objecting to victim impact statements.