



New South Wales

Crimes (Sentencing Procedure) Amendment (Victim Impact Statements—Mandatory Consideration) Bill 2014

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Crimes (Sentencing Procedure) Act 1999*:

- (a) to require courts to receive and consider victim impact statements, and
- (b) to provide for the giving of a victim impact statement to assist a court in relation to sentencing, and
- (c) to provide for the giving of a community impact statement where the court has received no primary victim impact statement or family victim impact statement.

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 **Amendment of Crimes (Sentencing Procedure) Act 1999 No 92**

Schedule 1 [2] removes a court's discretion to receive and consider victim impact statements and instead requires the court to receive and consider different kinds of victim impact statements in different circumstances.

If the primary victim of an offence has not died as a direct result of the offence the court must receive and consider a *primary victim impact statement*. If the primary victim has died as a direct

result of the offence the court must receive and consider a *family victim impact statement* or, if the court receives no family victim impact statement and no family victim objects, a *community impact statement*.

The giving of a victim impact statement remains discretionary and, accordingly, the court is not required to receive and consider a victim impact statement if none is given.

Schedule 1 [2] also provides for the giving of a victim impact statement by the prosecutor on behalf of the person who made the statement to assist the court in relation to sentencing the offender. **Schedule 1 [3]** repeals provisions inconsistent with, or made redundant by, the amendments made by **Schedule 1 [2]**. **Schedule 1 [4] and [6]** make consequential amendments.

Schedule 1 [1] expands the definition of *victim impact statement* in the *Crimes (Sentencing Procedure) Act 1999* to include a *community impact statement*, which is defined as a statement by or on behalf of the Commissioner of Victims Rights containing particulars of the impact of the offence, or the impact of offences of the same kind, on people living or working in the location in which the offence was committed or on the community generally or any particular sections of the community. **Schedule 1 [5]** revises terminology.



New South Wales

Crimes (Sentencing Procedure) Amendment (Victim Impact Statements—Mandatory Consideration) Bill 2014

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92	3



New South Wales

Crimes (Sentencing Procedure) Amendment (Victim Impact Statements—Mandatory Consideration) Bill 2014

No. , 2014

A Bill for

An Act to amend the *Crimes (Sentencing Procedure) Act 1999* to require courts to receive and consider victim impact statements.

The Legislature of New South Wales enacts:

1

1 Name of Act

2

This Act is the *Crimes (Sentencing Procedure) Amendment (Victim Impact Statements—Mandatory Consideration) Act 2014*.

3

4

2 Commencement

5

This Act commences on the date of assent to this Act.

6

Schedule 1	Amendment of Crimes (Sentencing Procedure) Act 1999 No 92	1
		2
[1] Section 26 Definitions		3
	Omit the definition of <i>victim impact statement</i> . Insert instead:	4
	<i>victim impact statement</i> means:	5
	(a) a statement by or on behalf of a primary victim containing particulars of any personal harm suffered by the primary victim as a direct result of the offence (a <i>primary victim impact statement</i>), or	6 7 8
	(b) a statement by or on behalf of a family victim containing particulars of the impact of the primary victim’s death on the members of the primary victim’s immediate family (a <i>family victim impact statement</i>), or	9 10 11
	(c) a statement by or on behalf of the Commissioner of Victims Rights (a <i>community impact statement</i>) containing particulars of the impact of the offence, or the impact of offences of the same kind, on:	12 13 14
	(i) people living or working in the location in which the offence was committed, or	15 16
	(ii) the community generally or any particular sections of the community.	17 18
[2] Section 28 Victim impact statements to be received and considered		19
	Omit section 28 (1). Insert instead:	20
	(1) After the court convicts but before it sentences an offender, the prosecutor may give the court a victim impact statement on behalf of the person who made the statement to assist the court in relation to sentencing the offender.	21 22 23
	(1A) Subject to this Division, the court must receive and consider:	24
	(a) if the primary victim has not died as a direct result of the offence—a primary victim impact statement, or	25 26
	(b) if the primary victim has died as a direct result of the offence—a family victim impact statement, or	27 28
	(c) if the primary victim has died as a direct result of the offence and the court has received no family victim impact statement and no family victim objects—a community impact statement.	29 30 31
	The court may make any comment on the victim impact statement that the court considers appropriate.	32 33
[3] Section 28 (3) and (4)		34
	Omit the subsections.	35
[4] Section 29 Victim impact statements discretionary		36
	Omit “may” from section 29 (2). Insert instead “must”.	37
[5] Section 30 Formal requirements for victim impact statements		38
	Omit “victim impact statement about the personal harm suffered by the victim” from section 30 (2).	39 40
	Insert instead “primary victim impact statement”.	41

[6] Section 30 (3)	1
Omit “may receive and consider a victim impact statement only if”.	2
Insert instead “must not receive and consider a victim impact statement unless”.	3