



New South Wales

# Victims Legislation Amendment Bill 2003

## Explanatory note

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

## Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Crimes (Sentencing Procedure) Act 1999* to enable victims of serious crimes (or their representatives) to read out victim impact statements in court,
  - (b) to amend the Charter of Victims Rights set out in the *Victims Rights Act 1996*:
    - (i) to require victims of crime to be informed in a timely manner of certain aspects of criminal proceedings against an accused person, and
    - (ii) to require victims of a serious crime that involves sexual violence, or that results in actual bodily harm, mental illness or nervous shock to the victim, to be consulted before any decision of the prosecution to modify or not to proceed with charges against the accused person is taken,
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- (c) to amend the *Victims Support and Rehabilitation Act 1996* to enable the immediate family of a person who is killed in a motor accident to apply for payments for approved counselling services under the Act if the person's death apparently occurred in the course of the commission of an offence of murder or manslaughter.

## 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 a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Crimes (Sentencing Procedure) Act 1999* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the *Victims Rights Act 1996* set out in Schedule 2.

**Clause 5** is a formal provision that gives effect to the amendment to the *Victims Support and Rehabilitation Act 1996* set out in Schedule 3.

## Schedule 1 Amendment of Crimes (Sentencing Procedure) Act 1999

**Schedule 1 [2]** inserts new section 30A into the *Crimes (Sentencing Procedure) Act 1999*. The proposed section allows written victim impact statements that may be received and considered by a court in sentencing proceedings under current provisions of the Act to be read out in court by a victim to whom the statement relates, or a member of the immediate family, or other representative, of the victim. (Under the Act, victim impact statements may be given only in relation to serious offences, for example, those that result in death of or actual physical bodily harm to a person, or that involve an act of actual or threatened violence or an act of sexual assault.)

**Schedule 1 [1]** makes a consequential amendment.

## Schedule 2 Amendment of Victims Rights Act 1996

**Schedule 2 [2]** replaces item 6.5 of the Charter of Victims Rights. At present item 6.5 provides that a victim should, on request, be informed about certain aspects of criminal proceedings against the accused person, such as the charges laid against the accused, any decision to modify or not to proceed with charges, the date and place of hearing of any charge laid against the accused, and the outcome of any criminal proceedings and the sentence (if any) imposed.

Under proposed item 6.5 (1), a victim does not need to make a request to be given this information. Instead, as a matter of course, the victim should be informed of these aspects in a timely manner.

Proposed item 6.5 (2) provides that if the accused has been charged with a serious crime that involves sexual violence or that results in actual bodily harm, mental illness or nervous shock to the victim, the victim should be consulted before any decision is made by the prosecution to modify or not to proceed with the charges, including any decision to accept a plea of guilty by the accused to a less serious charge in return for a full discharge with respect to the other charges. The victim need not be consulted if the victim does not wish to be consulted, or if the whereabouts of the victim cannot be ascertained after reasonable inquiry.

**Schedule 2 [1]** amends section 5 of the *Victims Rights Act 1996*, which specifies who is a victim of crime for the purposes of the Act. Section 5 provides that if a person dies as a result of an act committed, or apparently committed, by another person in the course of a criminal offence, a member of the person's immediate family is also a victim of crime for the purposes of the Act.

The proposed amendment enables the members of the immediate family of a person who dies as the result of such an act to nominate a representative for the purposes of the Charter of Victims Rights (for example, to receive information provided under the Charter, or to be consulted about a decision to modify or not to proceed with charges against the accused person).

### **Schedule 3 Amendment of Victims Support and Rehabilitation Act 1996**

**Schedule 3** amends the definition of *victim* in section 21 of the *Victims Support and Rehabilitation Act 1996* to enable members of the immediate family of a person who is killed in a motor accident to apply for payments for approved counselling services under the Act if the person's death apparently occurred in the course of the commission of an offence of murder or manslaughter. The Act at present excludes the payment of compensation (including for counselling services) in connection with motor accidents.