



New South Wales

Crimes (Sentencing Procedure) Amendment (Victim Impact Statements) Act 2008 No 81

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New South Wales

Crimes (Sentencing Procedure) Amendment (Victim Impact Statements) Act 2008 No 81

Act No 81, 2008

An Act to amend the *Crimes (Sentencing Procedure) Act 1999* to make further provision with respect to victim impact statements. [Assented to 5 November 2008]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes (Sentencing Procedure) Amendment (Victim Impact Statements) Act 2008*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92

The *Crimes (Sentencing Procedure) Act 1999* is amended as set out in Schedule 1.

4 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendments

(Section 3)

[1] Section 26 Definitions

Omit “, mental illness or nervous shock” from the definition of *personal harm*.

Insert instead “or psychological or psychiatric harm”.

[2] Section 26

Insert in alphabetical order:

prescribed sexual offence has the same meaning as it has in the *Criminal Procedure Act 1986*.

[3] Section 26, definition of “primary victim”

Insert “the sexual offence,” after “threatened violence,” in paragraph (b).

[4] Section 27 Application of Division

Omit “or an act of sexual assault” from section 27 (2) (b).

[5] Section 27 (2) (d)

Insert at the end of section 27 (2) (c):

, or

(d) a prescribed sexual offence.

[6] Section 27 (3) (c) (ii)

Omit “or an act of sexual assault”.

[7] Section 27 (3) (d)

Insert at the end of section 27 (3) (c):

, or

(d) a prescribed sexual offence that is referred to in Table 1 of Schedule 1 to the *Criminal Procedure Act 1986*.

[8] Section 30 Formal requirements for victim impact statements

Insert after section 30 (1):

(1A) Photographs, drawings or other images may be included in the victim impact statement, subject to compliance with any requirements relating to the inclusion of such matters that are prescribed by the regulations.

[9] Section 30 (2)

Omit the subsection. Insert instead:

- (2) If a primary victim is incapable of providing information for or objecting to a victim impact statement about the personal harm suffered by the victim (by reason of age, impairment or otherwise), a person having parental responsibility for the victim, a member of the primary victim's immediate family or any other representative of the victim may, subject to the regulations, act on behalf of the victim for that purpose.

[10] Section 30A Reading out victim impact statements in court

Insert "or a person having parental responsibility for the victim," after "relates," in section 30A (1).

[11] Section 30A (3) and (4)

Insert after section 30A (2):

- (3) If the proceedings for the offence concerned are proceedings in which the victim to whom the victim impact statement relates is entitled to give evidence by means of closed-circuit television arrangements, the victim is also entitled to read out the statement in accordance with those closed-circuit television arrangements.
- (4) For the purposes of this section, *closed-circuit television arrangements* means the arrangements for giving evidence provided for by section 294B or Division 4 of Part 6 of Chapter 6 of the *Criminal Procedure Act 1986*.

[12] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

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[13] Schedule 2, Part 18

Insert after Part 17:

**Part 18 Provisions consequent on enactment of
Crimes (Sentencing Procedure)
Amendment (Victim Impact Statements)
Act 2008**

58 Application of amendments

- (1) An amendment made to this Act by the *Crimes (Sentencing Procedure) Amendment (Victim Impact Statements) Act 2008* applies in respect of any victim impact statement that is first received by a court after the commencement of the amendment.
- (2) This Act, as in force immediately before any such amendment, continues to apply in respect of any victim impact statement received by a court before the commencement of the amendment.

[Agreement in principle speech made in Legislative Assembly on 29 August 2008
Second reading speech made in Legislative Council on 29 October 2008]

BY AUTHORITY