



New South Wales

Victims Rights Amendment Bill 2002

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 Charter of Victims Rights set out in the *Victims Rights Act 1996* to:

- (a) require victims of crime to be informed in a timely manner of certain aspects of criminal proceedings against an accused person, and
- (b) 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.

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.

Clause 3 is a formal provision giving effect to the amendments to the *Victims Rights Act 1996* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [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 for the accused to accept a plea of guilty 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 1 [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).



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New South Wales

Victims Rights Amendment Bill 2002

No. , 2002

A Bill for

An Act to amend the Charter of Victims Rights in the *Victims Rights Act 1996* with respect to providing victims of crime with information about the prosecution of accused persons.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Victims Rights Amendment Act 2002*.

2 Commencement

This Act commences on the date of assent.

3 Amendment of Victims Rights Act 1996 No 114

The *Victims Rights Act 1996* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 5 Meaning of victim of crime

Insert after section 5 (3):

- (4) If a person dies as a result of the act concerned and there is more than one member of the person's immediate family, members of the immediate family may nominate a representative for the purposes of the Charter of Victims Rights.

[2] Section 6 Charter of rights for victims of crime

Omit item 6.5. Insert instead:

6.5 Information about prosecution of accused

- (1) A victim should be informed in a timely manner of the following:
 - (a) the charges laid against the accused or the reasons for not laying charges,
 - (b) any decision of the prosecution to modify or not to proceed with charges laid against the accused, including any decision for the accused to accept a plea of guilty to a less serious charge in return for a full discharge with respect to the other charges,
 - (c) the date and place of hearing of any charge laid against the accused,
 - (d) the outcome of the criminal proceedings against the accused (including proceedings on appeal) and the sentence (if any) imposed.
- (2) A victim should be consulted before a decision referred to in paragraph (1) (b) is taken 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, unless:

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Schedule 1 Amendments

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- (a) the victim has indicated that he or she does not wish to
be so consulted, or
 - (b) the whereabouts of the victim cannot be ascertained
after reasonable inquiry.

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