

1994
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Acts Revision (Victims of Crime) Bill 1994

A BILL

FOR

**An Act to revise certain Acts to make further
provision in relation to victims of crime**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Acts Revision (Victims of Crime) Act 1994*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.
- 10 (2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

84075 1993/94 (175/94)

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

5 PART II—AMENDMENTS OF THE BAIL ACT 1992

Principal Act

3. In this Part, “Principal Act” means the *Bail Act 1992*.¹

Interpretation

10 4. Section 3 of the Principal Act is amended by inserting in subsection (1) the following definitions:

“ ‘harm’ includes—

- (a) physical injury;
- (b) mental injury or emotional suffering (including grief);
- (c) pregnancy;
- 15 (d) economic loss; and
- (e) substantial impairment of rights accorded by law;

‘victim’, in relation to an accused person, means—

- (a) a person (in this definition called the ‘primary victim’) who suffers harm—
 - 20 (i) in the course of, or as the result of, the commission of an offence of which the accused person is accused; or
 - (ii) in the course of assisting a police officer in the exercise of the officer’s power to arrest the accused person or to take action to prevent the commission of an offence of which the accused person is accused; or
- 25 (b) where a primary victim dies as a result of the commission of an offence of which the accused person is accused—any person who was financially or psychologically dependent on the primary victim immediately before his or her death.”
- 30

Criteria for granting bail to adults

5. Section 22 of the Principal Act is amended by inserting in subparagraph (1) (c) (iii) “a victim or” after “harassing”.

Insertion

5 6. After section 23 of the Principal Act the following section is inserted in Part IV:

Victim’s concern about need for protection

“23A. (1) Where a court is determining the grant of bail to an accused person—

- 10 (a) the prosecutor shall inform the court of any concern of which he or she is aware expressed by the victim about the need for protection from violence or harassment by the accused person; and
- (b) the court shall receive any submission in respect of that concern and have regard to it in the context of the matter referred to in
- 15 paragraph 22 (1) (c).

“2) Where an authorised officer determining the grant of bail to an accused person is aware that a victim has expressed concern about the need for protection from violence or harassment by the accused person, the authorised officer shall have regard to that concern in the context of the

20 matter referred to in paragraph 22 (1) (c).”.

Conditions on which bail may be granted to adults

7. Section 25 of the Principal Act is amended by omitting from subparagraph (4) (a) (ii) “or injury”.

Insertion

25 8. After section 27 of the Principal Act the following section is inserted:

Notice to victim of bail decisions

“27A. Where a court or authorised officer determining the grant of bail to an accused person is aware that a victim has expressed concern about the

30 need for protection from violence or harassment by the accused person, the court or authorised officer shall take all reasonable steps to inform the victim (or if the victim is a child, the person who has care and control of the child), as soon as practicable of—

- (a) its decision concerning the grant of bail; and
- 35 (b) if it decides to grant bail—any condition on which bail is granted.”.

Addition

9. Part VI of the Principal Act is amended by adding at the end the following Division:

“Division 3—Miscellaneous5 **Notice to victim of bail decisions**

“46A. Where a court or authorised officer conducting a review under this Part is aware that a victim has expressed concern about the need for protection from violence or harassment by the accused person, the court or authorised officer shall take all reasonable steps to inform the victim (or if
10 the victim is a child, the person who has care and control of the child), as soon as practicable of its decision.”

PART III—AMENDMENTS OF THE CRIMES ACT 1900**Principal Act**

10. In this Part, “Principal Act” means the *Crimes Act 1900*.²

15 **Insertion**

11. Before section 429 of the Principal Act the following section is inserted in Division 1 of Part XII:

Interpretation

“428Y. In this Part—

20 ‘victim’, in relation to an offence, means—

(a) a person (in this definition called the ‘primary victim’) who suffers harm—

(i) in the course of, or as the result of, the commission of the offence; or

25 (ii) in the course of assisting a police officer in the exercise of the officer’s power to arrest a person in respect of the commission of the offence or to take action to prevent the commission of the offence; or

30 (b) where a primary victim dies as a result of the commission of the offence—any person who was financially or psychologically dependent on the primary victim immediately before his or her death.”

Insertion

12. After section 429A of the Principal Act the following section is inserted:

Victim impact statements

5 “429AB. (1) A court determining the sentence to be imposed in respect of an offence—

(a) shall have regard to any victim impact statement tendered in respect of the offence; and

10 (b) shall not draw any inference about the harm suffered by a victim from the fact that a victim impact statement is not tendered in respect of the offence.

“2) The prosecutor shall not tender a victim impact statement to the court unless—

(a) the victim has consented in writing; and

15 (b) a copy of the statement has been given to the defence.

“3) The defence may cross-examine the victim about the contents of a victim impact statement.

“4) In this section—

‘court’ means the Supreme Court or the Magistrates Court;

20 ‘defence’ means—

(a) the legal practitioner representing the offender; or

(b) if the offender is not so represented—the offender;

‘harm’ includes—

(a) physical injury;

25 (b) mental injury or emotional suffering (including grief);

(c) pregnancy;

(d) economic loss; and

(e) substantial impairment of rights accorded by law;

30 ‘offence’ means an indictable offence for which the maximum penalty is a term of imprisonment for a term of at least 5 years (whether or not any other penalty, including a fine, may be imposed);

'victim impact statement' means a statement, signed by a victim, containing particulars of any harm suffered by the victim as a result of an offence."

PART IV—AMENDMENTS OF THE PAROLE ACT 1976

5 Principal Act

13. In this Part, "Principal Act" means the *Parole Act 1976*.³

Interpretation

14. Section 5 of the Principal Act is amended—

10 (a) by omitting "(other than an Act or regulations under an Act)" from the definition of "offence" in subsection (1); and

(b) by inserting in subsection (1) the following definitions:

" 'child' means a person who has not attained the age of 18 years;

'harm' includes—

- 15 (a) physical injury;
- (b) mental injury or emotional suffering (including grief);
- (c) pregnancy;
- (d) economic loss; and
- 20 (e) substantial impairment of rights accorded by law;

'victim', in relation to a person who is serving a sentence of imprisonment, means—

- (a) a person (in this definition called the 'primary victim') who suffers harm—
- 25 (i) in the course of, or as the result of, the commission of an offence for which the person is serving the sentence or an offence taken into account by the court when imposing the sentence; or
- 30 (ii) in the course of assisting a police officer in the exercise of the officer's power to arrest the person or to take action to prevent the commission of an offence by the person; or

- 5 (b) where a primary victim dies as a result of the commission of an offence for which the person was serving the sentence, or an offence taken into account by the court when imposing the sentence—any person who was financially or psychologically dependent on the primary victim immediately before his or her death.”

Release on parole

15. Section 20 of the Principal Act is amended—

- 10 (a) by inserting after subsection (1) the following subsections:

“(1A) When considering the making of a parole order in respect of a person, the Board shall have regard to any concern, of which it is aware, expressed by a victim about the need for protection from violence or harassment by the person.

- 15 “(1B) Where subsection (1A) applies, the Board shall take all reasonable steps to inform the victim (or if the victim is a child, the person who has care and control of the child), as soon as practicable of—

- 20 (a) the Board’s decision concerning the making of the order; and
(b) if the Board decides to make the order—the date on which the person concerned is to be released on parole.”;
- (b) by omitting from paragraph (3) (a) “his” (wherever occurring); and
(c) by inserting in paragraph (3) (a) “or she” after “he”.

NOTES

1. Act No. 8, 1992 as amended by No. 75, 1992; No. 73, 1994.
2. Reprinted as at 31 January 1994. See also Act No. 46, 1994.
3. Reprinted as at 31 May 1992. See also Act No. 1, 1993.