2026

THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

ELEVENTH ASSEMBLY

VICTIMS OF CRIME LEGISLATION AMENDMENT BILL 2026

EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004*, s 37)

Presented by
Caitlin Tough MLA
Minister for Human Rights
September 2026

VICTIMS OF CRIME LEGISLATION AMENDMENT BILL 2026

INTRODUCTION

The Bill **is not** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

This explanatory statement relates to the Victims of Crime Legislation Amendment Bill 2026 as presented to the Legislative Assembly. It has been prepared to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly. The statement is to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill.

OVERVIEW OF THE BILL

The Bill amends the following legislation:

- *Victims of Crime Act 1994*
- *Victims of Crime (Financial Assistance) Act 2016*
- *Victims of Crime Regulation 2000*
- *Victims of Crime (Financial Assistance) Regulation 2016*

The Bill will amend victims of crime legislation to improve its practical operation, ensure clarity and support efficient administration of laws.

Victims of Crime Act 1994 – Victims of Crime Levy

Under section 24 of the *Victims of Crime Act 1994* a victims services levy of $60 is imposed on a person who is convicted of an offence in the ACT and receives a sentence for that offence that includes a court imposed fine. Under section 82 of the *Victims of Crime (Financial Assistance) Act 2016* a financial assistance levy of $50 is imposed on a person who is convicted of an offence in the ACT. The funds obtained via these levies contribute to the cost of services (such as counselling) and financial assistance for victims of crime.

The Bill consolidates these two existing levies into one victims of crime levy and increases the total amount from $110 to $200. The funds obtained via this levy will continue to be used to contribute to the cost of services (such as counselling) and financial assistance for victims of crime.

The victims of crime levy will apply to a person who is convicted of an offence. It will only apply if the person was an adult at the time of the offence. The levy does not form a part of any pecuniary penalty imposed in relation to the offence.

A court may exempt a person from liability to pay the levy on grounds of undue hardship.

Victims of Crime Act 1994 – clarification regarding arrest warrants

Section 16A of the *Victims of Crime Act 1994* provides that the chief police officer must update a victim about the status of an offence investigation as soon as practicable after a change in the status of the investigation. The definition of 'change in the status of an investigation' includes when police decide to issue a warrant for the arrest of a person accused of committing the offence (section 16A(4)). However, the *Crimes Act 1900* provides that the power to issue a warrant for the arrest of a person is held by a judge, magistrate or court registrar only and not by police officers (see in particular section 185 of the *Crimes Act 1900*). As such, police officers cannot 'decide to issue a warrant' so section 16A(4) is inconsistent with the *Crimes Act 1900*.

The Bill amends the definition of 'change in the status of an investigation' at section 16A(4) to include when police decide to *apply for* a warrant for the arrest of a person accused of committing the offence, so that the provision is consistent with the *Crimes Act 1900*.

Victims of Crime (Financial Assistance) Act 2016 – clarify definition of primary victim

The Financial Assistance Scheme established under the *Victims of Crime (Financial Assistance) Act 2016* provides financial assistance to victims of crime to: assist them in recovery from acts of violence; contribute to the safety of victims of crime and the prevention of future acts of violence; acknowledge the harmful effects of acts of violence; and complement other services provided for victims of crime.

Section 11 of the *Victims of Crime (Financial Assistance) Act 2016* defines a 'primary victim' as a person who has been injured or died as a direct result of an act of violence done by another person.

The Bill amends the definition of 'primary victim' to: 'a person who has been injured or died as a direct result of an act of violence *against the person* done by another person'. This will clarify that an applicant for financial assistance can only claim assistance in relation to a 'primary victim' where the relevant act of violence that caused the injury or death was *committed against* the person who suffered the injury or death themselves (and was not only committed against a third party).

Victims of Crime (Financial Assistance) Act 2016 – lapsing application

Section 38(b) of the *Victims of Crime (Financial Assistance) Act 2016* provides that in deciding an application for financial assistance, the commissioner may by written notice, ask the applicant to give further information about the application (for example, details about a complaint or report made to police about an act of violence).

The Bill provides that where the commissioner has requested information via a section 38(b) notice and the applicant has failed to comply, then the application lapses 1 year after the notice was given. The commissioner must have given the applicant notice, at least twice, that the application will lapse unless the applicant complies with the section 38(b) notice.

If an application lapses the applicant may reapply for financial assistance.

This will ensure that where significant effort has been made by Victim Support ACT (VSACT) to contact the applicant to obtain further information required to enable the application to be considered and processed, but the applicant has not provided such information within 1 year, the application will lapse. This will support VSACT to provide timely decisions on applications made by victims of crime to the Financial Assistance Scheme by focussing resources on applications where sufficient information has been provided.

Victims of Crime (Financial Assistance) Act 2016 – duplicate applications

The Bill provides that where an applicant submits an application for financial assistance and the applicant has already made a previous application in relation to the same act of violence and has no reasonable grounds to make another application, then financial assistance must not be given for the further, duplicate application.

This will provide a pathway for VSACT to deal with duplicate applications, supporting the efficient administration of the Financial Assistance Scheme.

The Bill provides that a decision that an application is a duplicate and therefore financial assistance must not be given with respect to that duplicate application is both an internally reviewable decision (reviewable by the commissioner) and one that can be reviewed by the ACT Civil and Administrative Tribunal.

Victims of Crime (Financial Assistance) Act 2016 - CPI and Recognition Payments

The Bill removes existing provisions which allow for the annual adjustment of prescribed Recognition Payment amounts in line with the Consumer Price Index.

Victims of Crime (Financial Assistance) Regulation 2016 – CPI and WPI simplified

The Bill creates simplified provisions for the annual adjustment of prescribed maximum Financial Assistance Scheme amounts in line with the Consumer Price Index.

The Bill creates simplified provisions for the annual adjustment of prescribed maximum lawyers legal costs amounts in line with the Wage Price Index.

These adjustments will occur by Notifiable Instrument.

Victims of Crime Regulation 2000 – Victims of Crime Levy details

The Bill provides that the victims of crime levy does not apply to certain offences, including an offence under the *Heavy Vehicle National Law (ACT)* and parking offences under: the Road Transport (Road Rules) Regulation 2017; the Road

Transport (Safety and Traffic Management) Regulation 2017; and the *Australian National University Act 1991* (Cth) – Parking and Traffic Statute (No 2) 2007.

The Bill provides that the victims of crime levy amount is $200 and provides for annual adjustment of the levy in line with the Consumer Price Index. The adjustment will occur by Notifiable Instrument.

CONSULTATION ON THE PROPOSED APPROACH

Government has consulted with the Victims of Crime Commissioner, Victim Support ACT, ACT Courts and Tribunal and ACT Policing in the development of the Bill.

CLIMATE IMPACT

This Bill does not have a climate impact.

CONSISTENCY WITH HUMAN RIGHTS

Rights engaged

The Bill engages the following section of the Human Rights Act 2004 (**HRA**):

- **Section 21** – Right to a fair trial (*limited)*

Rights limited

<u>Section 21 HRA – Right to Fair Trial – Amendment to *Victims of Crime (Financial Assistance) Act 2016*</u>

1. Nature of the right and the limitation (s28(2)(a) and (c))

The right to fair trial provides that everyone has a right to have the determination of rights and obligations recognised by law, decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

The amendment will allow for financial assistance applications to lapse where there have been repeated requests to the applicant for information to be provided across 1 year and the information has not been provided.

The amendment limits the right to a fair trial as a financial assistance application will lapse after 1 year if certain conditions are not met. Such lapsing will end the victim's right to have that particular application determined.

2. Legitimate purpose (s28(2)(b))

The amendment pursues the legitimate objective of supporting the timely assessment of victims' applications for assistance under the Financial Assistance Scheme by preventing the unnecessary consideration by assessors of applications that cannot be determined because insufficient information has been provided. This will enable resources to be directed to timely assessment of valid applications where sufficient information has been provided.

The amendment is intended to enable the Financial Assistance Scheme to be administered effectively and with applications to the Scheme being assessed in a timely manner.

3. Rational connection between the limitation and the purpose (s28(2)(d))

The amendment will support the efficient operation and administration of the Financial Assistance Scheme as assessors will not need to continue to seek further information from an applicant where they have already made significant attempts, in writing, over a 12-month period to do so. While this may limit the rights of a small number of applicants, it frees up time and resources at Victim Support ACT to process applications where required information *has* been provided.

4. Proportionality (s28(2)(e))

The limitation is proportionate as the commissioner must give the applicant a written notice under section 38(b) of the *Victims of Crime (Financial Assistance) Act 2016* (the section 38 notice) with details of the further information about the application which is required.

After giving such written notice, an application cannot lapse for 1 year. Before the application can lapse, the commissioner must have given the applicant notice (on at least two occasions) of the consequences of failure to provide the requested further information, namely, that the application will lapse unless the applicant provides the further information.

Additionally, if the commissioner is satisfied that the applicant has a reasonable excuse for failing to comply with the section 38 notice then the application does not lapse.

An applicant may reapply for financial assistance if their application lapses under this provision. While there is a legislative timeframe for applications to be made, the Commissioner has discretion to extend this time where satisfied that it is interests of fairness to do so. As such, the amendment, which provides that an application will lapse after 1 year where the request for information has not been met, does not preclude a new application for financial assistance being lodged after the earlier application has lapsed.

VICTIMS OF CRIME LEGISLATION AMENDMENT BILL 2026

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Victims of Crime Legislation Amendment Bill 2026**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly **is** consistent with the *Human Rights Act 2004.*

…………………………………………………

Tara Cheyne MLA
Attorney-General

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of Act

This clause provides that the name of the Act is the *Victims of Crime Legislation Amendment Act 2026.*

Clause 2 Commencement

This clause provides for the commencement of the Act. The Act commences on the 7th day after its notification day. Sections 5-9, 15, 19, part 5 and schedule 1 commence on 1 July 2027.

Clause 3 Legislation amended

This clause identifies the legislation that will be amended by the Bill:

- *Victims of Crime Act 1994*
- *Victims of Crime (Financial Assistance) Act 2016*
- *Victims of Crime Regulation 2000*
- *Victims of Crime (Financial Assistance) Regulation 2016*
- *Crimes (Sentence Administration) Act 2005*
- *Magistrates Court Act 1930*

Part 2 Victims of Crime Act 1994

Clause 4 Police to update victims about status of investigations Section 16A(4), definition of *change of status of an investigation*, paragraph (b)

This clause omits the word ‘issue’ and substitutes the words ‘apply for’ in the definition of ‘change of status of an investigation’ for the purposes of section 16A(4) of the Act.

Clause 5 Part 5

This clause substitutes existing Part 5 (victims services levy) with new Part 5 (victims of crime levy). This new Part 5 provides:

- Section 23 - a definition of ‘convicted’ and a definition of ‘offence’.
- Section 24 (1) - the victims of crime levy (the levy) will provide a source of revenue to improve services for victims of crime and contribute to the cost of providing financial assistance to victims of crime,
- Section 24 (2) - a person who is convicted of an offence is liable to pay the levy for the offence.

- Section 24(3) - the levy applies only if the person was an adult at the time of the offence.
- Section 25 - The amount of the levy is prescribed by regulation.
- Section 26 - A court must not reduce the levy payable but may exempt a person from liability to pay the levy if paying it is likely to cause undue hardship.
- Section 27 - In the event of an appeal or review of a conviction, a person's liability to pay the levy is stayed. Dismissal of the appeal or review removes the stay of liability. Setting aside the conviction annuls the liability to pay the levy.

Clause 6 Dictionary, new definition of *convicted*

This clause inserts a new definition of 'convicted' for the purposes of part 5 (victims of crime levy). The definition refers to section 23 of the Act.

Clause 7 Dictionary, definition of *offence,* paragraph (b)

This clause amends the definition of 'offence' in the Act's Dictionary by removing reference to 'victims services levy' and substituting 'victims of crime levy'.

Clause 8 Dictionary, new definition of *victims of crime levy*

This clause inserts a definition in the Act's Dictionary for 'victims of crime levy'. The definition refers to section 24(1) of the Act.

Clause 9 Dictionary, definition of *victims services levy*

This clause omits the definition of 'victims services levy' in the Act's Dictionary.

Part 3 Victims of Crime (Financial Assistance) Act 2016

Clause 10 Meaning of *primary victim*
Section 11, definition of *primary victim*

This clause amends the definition of 'primary victim' at section 11 of the Act by inserting the words 'against the person' so that the definition is: a person who has been injured or dies as a direct result of an act of violence *against the person* done by another person.

Clause 11 CPI indexation of certain prescribed amounts
Section 25

This clause omits existing Consumer Price Index (CPI) adjustment provisions (for certain prescribed amounts) at section 25 of the Act. This will remove provisions allowing for the annual adjustment of Recognition Payment amounts in line with CPI.

Clause 12 New section 36A

Section 38(b) of the *Victims of Crime (Financial Assistance) Act 2016* provides that in deciding an application for financial assistance the commissioner may (in writing) ask the applicant to give the commissioner: further information about the application; and/or an authorisation that allows the commissioner to obtain further information about the application from another person.

This clause provides that where the commissioner provides an applicant for financial assistance with a written notice under section 38(b) of the *Victims of Crime (Financial Assistance) Act 2016* (a section 38 notice) about an application then the application lapses 1 year after the day the written notice is given, if certain conditions are met.

Those conditions are: the applicant has failed to comply with the section 38 notice; the commissioner is not satisfied that the applicant has a reasonable excuse for failing to comply with the section 38 notice; and the commissioner has given the applicant notice, at least twice, that the application will lapse unless the applicant complies with the section 38 notice.

The clause also provides that if an application lapses under new section 36A, the applicant may reapply for financial assistance.

Clause 13 Circumstances in which financial assistance must not be given New section 45(1)(f) and (1A)

Section 45 of the *Victims of Crime (Financial Assistance) Act 2016* provides that if the commissioner believes on reasonable ground that a disqualifying circumstance applies in relation to an applicant for financial assistance then the commissioner must not give financial assistance to the applicant.

This clause inserts a new 'disqualifying circumstance' in which financial assistance must not be given: where the applicant has made a previous application in relation to the same act of violence and has no reasonable grounds to make another application.

This provides for a duplicate application to be disqualified from further consideration on the ground that financial assistance must not be given for that application.

Clause 14 Section 45(4)

This clause amends section 45(4) so that it is clear that the provision applies to an applicant in relation to an application (and not in relation to the applicant generally).

Clause 15 Victims financial assistance levy
Part 7

This clause omits part 7 of the *Victims of Crime (Financial Assistance) Act 2016* which creates the victims financial assistance levy. A new victims of crime levy is created by the Bill at clause 5 and will replace the victims financial assistance levy (and the victims services levy).

Clause 16 Section 97

This clause omits existing Wage Price Index (WPI) adjustment provisions (for prescribed maximum lawyers legal costs amounts) at section 97 of the *Victims of Crime (Financial Assistance) Act 2016*. New WPI adjustment provisions for those amounts are created by the Bill at clause 20.

Clause 17 Internally reviewable decisions
Schedule 2, part 2.1, new item 1A

This clause ensures that a decision that financial assistance not be given because the disqualifying circumstance at section 45(1)(f) of the *Victims of Crime (Financial Assistance) Act 2016* (the Act) applies is an internally reviewable decision.

An applicant for financial assistance may apply to the commissioner for reconsideration of a decision made pursuant to section 45(1)(f) of the Act. Section 92 of the Act provides the conditions for applying for an internal review. Conditions include that the application must be made within 28 days after notice of the decision is given to the financial assistance applicant and the application must be in writing and set out the grounds on which reconsideration of the decision is sought.

Clause 18 Dictionary, definitions of *convicted, convicts* and *offence*

This clause omits the definition of 'convicted', 'convicts' and 'offence' as they exist for the purpose of the victims financial assistance levy provisions, which are being removed from the Act by this Bill.

Part 4 Victims of Crime (Financial Assistance) Regulation 2016

Clause 19 Section 5

This clause substitutes the old section 5 for a new section 5, providing a new method for adjustment of the prescribed maximum total financial assistance amounts with reference to the Consumer Price Index (CPI). Any new amounts which reflect adjustment according to the CPI will be published by notifiable instrument.

Clause 20 Section 12

This clause substitutes the old section 12 for a new section 12, providing a new method for adjustment of prescribed maximum lawyers legal costs amounts with reference to the Wage Price Index (WPI). Any new amounts which reflect adjustment according to the WPI will be published by notifiable instrument.

Part 5 Victims of Crime Regulation 2000

Clause 21 New part 3A

This clause inserts new Part 3A into the Regulation. New Part 3A provides details of the victims of crime levy created at clause 5 of the Bill. It prescribes offences that are excluded from being subject to the victims of crime levy. It prescribes the amount of the levy ($200) and provides for adjustment of the levy amount with reference to the Consumer Price Index (CPI).

Any new amounts which reflect adjustment according to the CPI will be published by notifiable instrument.

Clause 22 Victims services levy – excluded offences – Act, s23 Section 49A

This clause omits section 49A of the regulation as it exists for the purpose of the victims services levy provisions, which are being removed from the *Victims of Crime Act 1994* by this Bill.

Clause 23 Schedule 2 heading and reference

This clause substitutes the current title of ‘Schedule 2 Victims services levy – excluded offences’ with the new heading of ‘Schedule 2 Victims of crime levy – excluded offences’ as this Bill replaces the victims services levy provisions with new victims of crime levy provisions in the *Victims of Crime Act 1994*.

Schedule 1 Consequential amendments

Part 1.1 Crimes (Sentence Administration) Act 2005

Clause [1.1] Section 116A, definition of fine, paragraphs (d) and (e)

This clause amends the definition of ‘fine’ in the Dictionary of the Act. It substitutes the current reference to ‘a victims services levy’ with a new reference to the ‘victims of crime levy’ as this Bill replaces the victims services levy provisions with new victims of crime levy provisions in the *Victims of Crime Act 1994*.

Clause [1.2] Section 116C(2), note

Currently, a victims services levy is recoverable under the *Crimes (Sentence Administration) Act 2005*, ch 6A (Court imposed fines). The Bill provides (at clause 5) that the new victims of crime levy will be recoverable under the *Crimes (Sentence) Administration) Act 2005*, ch 6A (Court imposed fines).

The note at section 116C(2) of the Crimes (Sentence Administration) Act provides an example of when a penalty notice may be given to an offender as a result of a conviction or order by the Supreme Court or Magistrates Court. This example includes a penalty notice being given in relation to a victims services levy imposed under the *Victims of Crime Act 1994*.

This clause omits the current reference to 'victims services levy' in the note at section 116C(2) of the *Crimes (Sentence Administration) Act 2005* and substitutes a new reference to the 'victims of crime levy' as this Bill replaces the victims services levy provisions with new victims of crime levy provisions in the *Victims of Crime Act 1994*.

Clause [1.3] Section 116ZR (c) and (d)

Section 116ZR of the Act provides for the order in which amounts received in payment of an unpaid amount of a fine must be applied towards satisfying the unpaid amount. Section 116ZR(e) refers to a victims services levy.

This clause substitutes the reference to a victims services levy at section 116ZR(e) with a reference to a victims of crime levy as this Bill replaces the victims services levy provisions with new victims of crime levy provisions in the *Victims of Crime Act 1994*.

Part 1.2 Magistrates Court Act 1930

Clause [1.4] Section 141(2)

Section 141(2) of the Act provides that if the court convicts or makes an order against a defendant, a minute or memorandum of the conviction or order may specify the amount of any victims financial assistance levy.

This clause omits the reference to a victims financial assistance levy at section 141(2) and substitutes it with a reference to a victims of crime levy as this Bill omits the victims financial assistance levy provisions in the *Victims of Crime (Financial Assistance Act) 2016*, while creating a new victims of crime levy in the *Victims of Crime Act 1994.*