

**WESTERN AUSTRALIA**

---

# **VICTIMS OF CRIME ACT 1994**

---

**No. 81 of 1994**

---

**AN ACT about victims of crime.**

*[Assented to 23 December 1994.]*

The Parliament of Western Australia enacts as follows:

**Short title**

1. This Act may be cited as the *Victims of Crime Act 1994*.

**Interpretation**

2. In this Act, unless the contrary intention appears —

**“guidelines”** means the guidelines in Schedule 1;

**“offence”** includes an alleged offence;

**“public officers and bodies”** includes —

- (a) Ministers of the Crown;
- (b) judges, magistrates and other judicial officers;
- (c) officers of courts;
- (d) the Director of Public Prosecutions and other people who are involved in the prosecution of offences;
- (e) the Commissioner of Police and members of the Police Force;
- (f) the Parole Board;
- (g) the Supervised Release Review Board;
- (h) juvenile justice teams; and
- (i) employees or bodies in the public sector whose functions involve dealing with offenders or victims;

**“victim”** means —

- (a) a person who has suffered injury, loss or damage as a direct result of an offence, whether or not that injury, loss or damage was reasonably foreseeable by the offender; or
- (b) where an offence results in a death, any member of the immediate family of the deceased.

### **Guidelines about treatment of victims**

3. (1) Public officers and bodies are authorized to have regard to and apply the guidelines in Schedule 1 and they should do so to the extent that it is —

- (a) within or relevant to their functions to do so; and
- (b) practicable for them to do so.

(2) If because of age, disability or any other reason it is not practicable for a victim to receive counselling or information, make requests or express views or concerns under the guidelines, another person may do those things on the victim's behalf if the public officer or body concerned is satisfied that it is appropriate for that other person to do so.

(3) Nothing in this Act provides, or is to be taken as providing, any person with a legally enforceable right or entitlement, and a failure to apply this Act, or to have regard to a guideline, or to treat a victim in accordance with a guideline, does not —

- (a) affect the validity of anything done or not done or of any proceedings; or
- (b) provide grounds for any act, omission or decision to be challenged, appealed against, reviewed, quashed or called in question in or by any court or tribunal or for any injunctive, declaratory or other relief, remedy or order to be asked for or granted whether by way of prerogative writ or otherwise.

### **Victim impact statements**

4. (1) A victim, or a person authorized to do so under subsection (2), may give a victim impact statement to a court (including a court determining an appeal) to assist the court in deciding the proper sentence for the offender.

(2) If because of age, disability or any other reason a victim is personally incapable of giving a victim impact statement, another person may give it on the victim's behalf if the court is satisfied that it is appropriate for that other person to do so.

### **Victim impact statement: content**

**5.** (1) A victim impact statement is a written or oral statement that —

- (a) gives particulars of any injury, loss, or damage suffered by the victim as a direct result of the offence; and
- (b) describes the effects on the victim of the commission of the offence.

(2) A victim impact statement is not to address the way in which or the extent to which the offender ought to be sentenced.

(3) A victim impact statement may be accompanied by a report by any person who has treated the victim in connection with the effects on the victim of the commission of the offence.

### **Review of Act**

**6.** (1) The Minister is to cause reviews of the operation and effectiveness of this Act to be carried out annually.

(2) The Minister is to cause a report to be prepared on each review and is to cause the report to be tabled before each House of Parliament as soon as practicable after it is prepared.

**SCHEDULE 1**

[Section 3]

**GUIDELINES AS TO HOW VICTIMS SHOULD BE TREATED**

1. A victim should be treated with courtesy and compassion and with respect for the victim's dignity.
2. A victim should be given access to counselling about the availability of welfare, health, medical and legal assistance services and criminal injuries compensation.
3. A victim should be informed about the availability of lawful protection against violence and intimidation by the offender.
4. Inconvenience to a victim should be minimized.
5. The privacy of a victim should be protected.
6. A victim who has so requested should be kept informed about —
  - (a) the progress of the investigation into the offence (except where to do so may jeopardize the investigation);
  - (b) charges laid;
  - (c) any bail application made by the offender; and
  - (d) variations to the charges and the reasons for variations.
7. A victim who is a witness in the trial of the offender and has so requested should be informed about the trial process and the role of the victim as a witness in the prosecution of the offence.
8. A victim who has so requested should be informed about any sentence imposed on the offender, or any other order made in respect of the offender, as a result of the trial and about any appeal and the result of any appeal.
9. A victim's property held by the Crown or the police for the purposes of investigation or evidence should be returned as soon as possible.
10. Arrangements should be made so that a victim's views and concerns can be considered when a decision is being made about

whether or not to release the offender from custody (otherwise than at the completion of a term of imprisonment or detention).

11. A victim who has so requested should be informed about the impending release of the offender from custody and, where appropriate, about the proposed residential address of the offender after release.
12. A victim who has so requested should be informed of any escape from custody by the offender.