

Western Australia

## **Victims of Crime Act 1994**

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Western Australia

## **Victims of Crime Act 1994**

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## Victims of Crime Act 1994

### An Act about victims of crime.

#### 1. Short title

This Act may be cited as the *Victims of Crime Act 1994*<sup>1</sup>.

#### 2. Interpretation

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.

**3. Guidelines about treatment of victims**

- (1) Public officers and bodies are authorised 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.

**4. Information about victims, provision of by police and DPP**

- (1) In this section —

**“Department”** means the department of the Public Service principally assisting the Minister in the administration of this Act;

**“DPP”** means the Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1991*;

**“prescribed information”**, in relation to a victim, means —

- (a) the name, address, telephone number, age and ethnicity of the victim;
  - (b) a description of the offence and an abridged description of the circumstances of its commission;
  - (c) the name of the offender or alleged offender, if known;
  - (d) the name, rank and registered number of the member of the Police Force in charge of investigating the offence;
  - (e) the police station or office where information about the investigation of the offence is held;
  - (f) the status of the investigation and prosecution of the offence by the Police Force; and
  - (g) any information prescribed by the regulations.
- (2) The Commissioner of Police may provide the chief executive officer of the Department with prescribed information in relation to a victim so that the Department can offer the victim the services it has available for victims.
  - (3) The DPP may provide the chief executive officer of the Department with such information in relation to a victim as the DPP thinks fit so that the Department can offer the victim the services it has available for victims.
  - (4) Any information provided under subsection (2) or (3) must be provided in confidence.

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- (5) The provision of information under subsection (2) or (3) in confidence and in good faith does not constitute a breach of any written or other law.
- (6) Information provided under subsection (2) or (3) must not be used by the Department for purposes other than those specified in subsection (2) or (3).

*[Section 4 inserted by No. 30 of 2004 s. 4.]*

*[5. Repealed by No. 78 of 1995 s. 129.]*

**6. Review of Act**

- (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

**Schedule 1** Guidelines as to how victims should be treated

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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.

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## Notes

- <sup>1</sup> This is a compilation of the *Victims of Crime Act 1994* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Victims of Crime Act 1994</i>	81 of 1994	23 Dec 1994	20 Jan 1995
<i>Sentencing (Consequential Provisions) Act 1995 Pt. 79</i>	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Victims of Crime Amendment Act 2004</i>	30 of 2004	14 Oct 2004	14 Oct 2004 (see s. 2)

**Reprint 1: The *Victims of Crime Act 1994* as at 4 Mar 2005** (includes amendments listed above)

- <sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

### Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Parole and Sentencing Legislation Amendment Act 2006 s. 97</i> <sup>2</sup>	41 of 2006	22 Sep 2006	To be proclaimed (see s. 2)
<i>Prisons and Sentencing Legislation Amendment Act 2006 Pt. 12</i> <sup>3</sup>	65 of 2006	8 Dec 2006	To be proclaimed (see s. 2)

- <sup>2</sup> On the date as at which this compilation was prepared, the *Parole and Sentencing Legislation Amendment Act 2006 s. 97* had not come into operation. It reads as follows:

“

**97. *Victims of Crime Act 1994* amended**

- (1) The amendments in this section are to the *Victims of Crime Act 1994*.

- (2) Section 2 is amended in the definition of “public officers and bodies” by deleting paragraph (f) and inserting instead —

“

- (f) the Prisoners Review Board;
- (fa) the Mentally Impaired Accused Review Board;

”.

”.

- <sup>3</sup> On the date as at which this compilation was prepared, the *Prisons and Sentencing Legislation Amendment Act 2006* Pt. 12 had not come into operation. It reads as follows:

“

### **Part 12 — *Victims of Crime Act 1994* amended**

#### **71. The Act amended in this Part**

The amendments in this Part are to the *Victims of Crime Act 1994*.

#### **72. Section 4 amended**

- (1) Section 4(1) is amended as follows:

- (a) by inserting in the appropriate alphabetical positions —

“

**“agency”** means the Public Sector agency principally assisting the Minister administering a relevant enactment in its administration;

**“relevant enactment”** means any provision of this Act, the *Prisons Act 1981* or the *Sentence Administration Act 2003*.

”;

- (b) by deleting the definition of “Department”;
- (c) in paragraph (g) of the definition of “prescribed information” by deleting “regulations.” and inserting instead —  
“ regulations; ”.

- (2) Section 4(2) and (3) are repealed and the following subsections are inserted instead —

“

- (2) The Commissioner of Police may provide the chief executive officer of an agency with prescribed information in relation to a victim so that the agency can offer the victim the services it has available for victims.

- (3) The DPP may provide the chief executive officer of an agency with such information in relation to a victim as the DPP thinks fit so that the agency can offer the victim the services it has available for victims.

”.

- (3) Section 4(6) is amended by deleting “the Department” and inserting instead —  
“ an agency ”.

**73. Section 5 inserted**

After section 4 the following section is inserted —

“

**5. Regulations**

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for carrying out or giving effect to the purposes of this Act.

”.

”.