

NORTHERN TERRITORY OF AUSTRALIA

SENTENCING AMENDMENT BILL 1996

TABLE OF PROVISIONS

Clause

1. Short title
2. Commencement
3. Sentencing guidelines
4. Subdivision Heading:

"Subdivision 1 - Information, Reports, &c."

5. New Subdivision:

*"Subdivision 2 - Victim Impact Statements
and Victim Reports"*

"106A. DEFINITIONS

"106B. VICTIM IMPACT STATEMENTS AND VICTIM
REPORTS"

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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the *Sentencing Act*

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Sentencing Amendment Act 1996*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. SENTENCING GUIDELINES

Section 5(2)(b) of the *Sentencing Act* is amended by omitting "physical or" and substituting "physical, psychological or".

4. SUBDIVISION HEADING

The *Sentencing Act* is amended by inserting after the heading to Division 2 of Part 6 the following:

"Subdivision 1 - Information, Reports, &c."

Sentencing Amendment

5. NEW SUBDIVISION

The *Sentencing Act* is amended by inserting after section 106 the following:

*"Subdivision 2 - Victim Impact Statements
and Victim Reports*

"106A. DEFINITIONS

"In this Subdivision -

'harm' includes -

- (a) physical injury;
- (b) psychological or emotional suffering, including grief;
- (c) pregnancy; and
- (d) economic loss;

'relative' includes a relative according to Aboriginal tradition or contemporary social practice, a spouse and a de facto partner;

'victim' means -

- (a) a person who suffers harm arising from an offence; or
- (b) where the person referred to in paragraph (a) dies as a result of the commission of the offence, a person who was a relative of, or who was financially or psychologically dependent on, the person;

'victim impact statement' means an oral or written statement prepared for the purposes of section 106B(1) containing details of the harm suffered by a victim of an offence arising from the offence;

'victim report' means an oral or written statement, prepared by the prosecutor for the purposes of section 106B(2), containing details of the harm suffered by a victim of an offence arising from the offence.

"106B. VICTIM IMPACT STATEMENTS AND VICTIM REPORTS

"(1) The prosecutor shall present to the court, before it sentences an offender in relation to an offence, a victim impact statement where the victim consents to its presentation.

Sentencing Amendment

"(2) The prosecutor shall present to the court, before it sentences an offender in relation to an offence, a victim report in relation to each victim of the offence where -

- (a) the victim has not consented to the presentation to the court of a victim impact statement in relation to him or her and has been informed of the contents of the victim report and does not object to its presentation; or
- (b) the victim cannot, after reasonable attempts have been made by the prosecutor, be located,

and there are readily ascertainable details of the harm suffered by the victim arising from the offence that are not already before the court as evidence or as part of a pre-sentence report prepared under section 105 in relation to the offender.

"(3) With the permission of the court, a person other than the prosecutor may present a victim impact statement.

"(4) Subject to subsections (7) and (8), the court shall consider each victim impact statement and each victim report, if any, in relation to an offence before determining the sentence to be imposed in relation to the offence.

"(5) A victim impact statement or a victim report may contain details of the harm caused to the victim of the offence to which the statement or report relates arising from another offence -

- (a) for which the offender has already been sentenced, or will be sentenced in the proceedings then before the court; or
- (b) which, under section 107, has already been taken into account in a sentence or which may be taken into account under that section in the proceedings then before the court.

"(6) A court shall not draw an inference in favour of an offender or against a victim because the victim has not consented to the presentation of a victim impact statement or has objected to the presentation of a victim report.

"(7) A court shall not take into account a written victim impact statement unless it has been signed.

"(8) A court shall not take into account a victim impact statement or a victim report, where the statement or report -

Sentencing Amendment

- (a) is in writing, unless a copy of the statement or report is provided to the offender; or
- (b) is to be presented to the court orally, unless a written or oral summary of the contents of the statement or report is provided to the offender.

"(9) A legal practitioner representing the offender or, with the leave of the court, the offender -

- (a) where a victim impact statement is in writing, may cross-examine the person who signed the statement; or
- (b) where a victim impact statement is presented to the court orally, may cross-examine the person, not being the prosecutor, presenting the statement,

about its contents."
