

Serial 44
Victims of Crime Rights and Services Bill 2006
Dr Toyne

**A BILL
for
AN ACT**

to establish bodies to promote the rights of victims of criminal offences and
provide services to those victims, and for related matters

NORTHERN TERRITORY OF AUSTRALIA
VICTIMS OF CRIME RIGHTS AND SERVICES ACT 2006

Act No. [] of 2006

TABLE OF PROVISIONS

Section

PART 1 – PRELIMINARY MATTERS

1. Short title
2. Commencement
3. Objects
4. Definitions

PART 2 – CRIME VICTIMS SERVICES UNIT

5. Establishment of CVSU
6. Director
7. CVSU officers
8. Functions of CVSU
9. Annual report

PART 3 – CRIME VICTIMS ADVISORY COMMITTEE

10. Establishment and constitution of Advisory Committee
11. Term of appointment
12. Resignation and removal of member
13. Holding meetings
14. Procedure at meetings
15. Defect or vacancy etc. does not invalidate decision
16. Functions and powers of Advisory Committee

PART 4 – VICTIMS REGISTER

17. Application of Part
18. Relevant offence
19. Eligibility to be registered
20. Application for person to be entered on register
21. Decision and notice about entry on register
22. Information to be given to registered persons
23. Information to be given about consideration of parole
24. Registered person may make submission to Parole Board

- 25. Director of Correctional Services to inform CVSU
- 26. When information not to be given to registered person
- 27. Obligations of registered person
- 28. Removal from register
- 29. Non-disclosure of confidential information

PART 5 – MISCELLANEOUS MATTERS

- 30. Charter
- 31. Guidelines
- 32. Protection from liability
- 33. Delegations
- 34. Regulations

PART 6 – REPEAL AND TRANSITIONAL MATTERS FOR *VICTIMS OF CRIME RIGHTS AND SERVICES ACT 2006*

- 35. Definition
- 36. Repeal
- 37. Continuation of appointment of members
- 38. Continuation of approved organisation



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2006

AN ACT

to establish bodies to promote the rights of victims of criminal offences and provide services to those victims, and for related matters

[Assented to [] 2006]
[Second reading [] 2006]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY MATTERS

1. Short title

This Act may be cited as the *Victims of Crime Rights and Services Act 2006*.

2. Commencement

This Act comes into operation on the date, or respective dates, fixed by the Administrator by notice in the *Gazette*.

3. Objects

The objects of this Act are:

- (a) to establish the Crime Victims Services Unit to promote the rights of victims, administer schemes for providing counselling and financial assistance to victims, establish and operate the Victims Register and assist victims generally; and

- (b) to establish the Crime Victims Advisory Committee to advise the Minister about the interests and rights of victims and the services provided to victims; and
- (c) to enable registered victims of violent criminal offences, and people concerned with particular criminal offences, to be given specified information relating to the offenders who committed the offences; and
- (d) to enable the Minister to issue a Charter of Victims Rights for the protection and promotion of the rights of victims and issue guidelines to assist the administration of this Act.

4. Definitions

In this Act, unless the contrary intention appears:

"Advisory Committee" means the Crime Victims Advisory Committee established by section 10;

"approved organisation" means an organisation approved under section 10(4);

"chairperson" means the chairperson of the Advisory Committee appointed under section 10(2)(a);

"charter" means the Charter of Victims Rights issued under section 30;

"child" means a person who is less than 18 years of age;

"counselling scheme" means the Victims Counselling Scheme established by the *Victims of Crime Assistance Act*;

"CVSU" means the Crime Victims Services Unit established by section 5;

"CVSU officer" means a person holding or occupying the office of CVSU officer mentioned in section 7(1);

"Director" means the person holding or occupying the office of Director of the CVSU mentioned in section 6(1);

"Director of Correctional Services" means the person holding or occupying the office of Director of Correctional Services under the *Prisons (Correctional Services) Act*;

"financial assistance scheme" means the Victims Financial Assistance Scheme established by the *Victims of Crime Assistance Act*;

"imprisonment" includes detention;

"member" means a member of the Advisory Committee;

"Parole Board" means the Parole Board of the Northern Territory established by the *Parole of Prisoners Act*;

"parole order" has the same meaning as in the *Parole of Prisoners Act*;

"prison" includes detention centre;

"register" means the Victims Register established under section 8(b);

"registered" means entered on the register;

"relevant offence", for Part 4, has the meaning in section 18;

"relevant offender", in relation to a registered person, means the offender about whom the registered person is entitled to be given specified information;

"victim" means a victim of a criminal offence.

PART 2 – CRIME VICTIMS SERVICES UNIT

5. Establishment of CVSU

- (1) The Crime Victims Services Unit is established.
- (2) The CVSU is constituted by the Director and CVSU officers.

6. Director

- (1) The Chief Executive Officer may in writing appoint a public sector employee to the office of Director of the CVSU.
- (2) The Director must manage the operations of the CVSU and may perform any of its functions.
- (3) The Director also has any other functions conferred on the Director under this or any other Act.
- (4) The Director has the powers necessary or convenient for the performance of the functions of office.

7. CVSU officers

- (1) The Chief Executive Officer may in writing appoint public sector employees to be CVSU officers.
- (2) A CVSU officer may perform the functions of the CVSU in accordance with the directions of the Director.

(3) A CVSU officer has the powers necessary or convenient for the performance of the officer's functions.

8. Functions of CVSU

The CVSU has the following functions:

- (a) to administer the financial assistance scheme and counselling scheme;
- (b) to establish and operate the register;
- (c) to coordinate services provided to victims by the Territory and to promote the effective delivery of those services;
- (d) to provide information to victims about other services provided to victims;
- (e) to promote and oversee the operation of the charter;
- (f) to assist victims to exercise their rights, including by helping them to access information about an alleged offender before and during court proceedings;
- (g) to educate the community about the rights of victims;
- (h) any other functions conferred on the CVSU by the Minister or under this or any other Act.

9. Annual report

(1) The Director must, within 3 months after the end of each financial year, give the Chief Executive Officer an annual report on the operation of the CVSU for the year.

(2) The annual report must include details about the administration of the financial assistance scheme and counselling scheme and the operation of the register.

PART 3 – CRIME VICTIMS ADVISORY COMMITTEE

10. Establishment and constitution of Advisory Committee

(1) The Crime Victims Advisory Committee is established.

Victims of Crime Rights and Services Act 2006

- (2) The Advisory Committee is constituted by the following members:
 - (a) a person who:
 - (i) has qualifications or experience as a legal practitioner, medical practitioner, psychologist, psychiatrist or counsellor; and
 - (ii) is appointed by the Minister;
 - (b) a person who:
 - (i) is a legal practitioner not employed by the Territory or Commonwealth; and
 - (ii) is appointed by the Minister after consulting with organisations representing the interests of legal practitioners in the Territory;
 - (c) a person who:
 - (i) is a medical practitioner not employed by the Territory or Commonwealth; and
 - (ii) is appointed by the Minister after consulting with organisations representing the interests of medical practitioners in the Territory;
 - (d) 2 persons, each of whom:
 - (i) is involved in the day-to-day operations in the Territory of an approved organisation; and
 - (ii) is appointed by the Minister on the recommendation of the organisation;
 - (e) 2 other persons appointed by the Director;
 - (f) the Director or a person nominated by the Director;
 - (g) the Commissioner of Police or a person nominated by the Commissioner;
 - (h) the Chief Executive Officer of the Agency primarily responsible for providing health services or community welfare services, as decided by the Minister, or a person nominated by the relevant Chief Executive Officer;

- (i) 2 persons nominated by the Chief Executive Officer, of whom:
 - (i) one must have expertise in legal matters; and
 - (ii) one must have expertise in correctional services.
- (3) The member mentioned in subsection (2)(a) is the chairperson.
- (4) For subsection (2)(d), the Minister may approve an organisation providing counselling and assistance to victims.
- (5) For subsection (2)(i), the Chief Executive Officer may be a member instead of nominating one of the persons mentioned in the subsection.

11. Term of appointment

The members appointed by the Minister hold office for 2 years from the date of appointment but are eligible for re-appointment.

12. Resignation and removal of member

- (1) A member may resign from office by giving the Minister a written notice of resignation.
- (2) The Minister may terminate the appointment of a member:
 - (a) for misbehaviour or incapacity; or
 - (b) if the member is appointed under section 10(2)(d) and the approved organisation that recommended the appointment gives the Minister written notice that the person is no longer involved in the day-to-day operations of the organisation in the Territory.
- (3) The Minister must terminate the appointment of a member who:
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (b) becomes of unsound mind; or
 - (c) is convicted of an offence punishable by imprisonment; or
 - (d) is absent from 3 consecutive meetings of the Advisory Committee without the Minister's consent; or
 - (e) ceases to hold the qualification required for appointment; or
 - (f) ceases to reside in the Territory.

13. Holding meetings

(1) The Advisory Committee must meet when necessary, but not less than at 6 monthly intervals.

(2) The chairperson may convene meetings, by written notice to the other members, to be held at the time and place specified in the notice.

(3) If the Minister requests the chairperson to convene a meeting, the chairperson must do so.

14. Procedure at meetings

(1) Subject to this section, the procedure at meetings of the Advisory Committee is as decided by the members.

(2) A quorum at a meeting is constituted by 7 members.

(3) The chairperson must preside at the meetings at which the chairperson is present.

(4) In the chairperson's absence from a meeting the members present must elect a member to preside.

(5) A question arising at a meeting must be decided by a majority of votes of members present and voting.

(6) The chairperson or presiding member has only a deliberative vote and if there are equal votes on a question it is decided in the negative.

(7) The Advisory Committee must keep a record of its meetings.

15. Defect or vacancy etc. does not invalidate decision

A decision or act of the Advisory Committee is not invalidated merely because of any of the following:

- (a) a defect in the appointment of a member;
- (b) a disqualification of a member;
- (c) a defect in the convening of the meeting;
- (d) a vacancy in the membership.

16. Functions and powers of Advisory Committee

- (1) The Advisory Committee has the following functions:
 - (a) to advise the Minister on matters affecting the interests or rights of victims;
 - (b) to investigate, report and make recommendations to the Minister about matters referred to it by the Minister;
 - (c) to disseminate information relating to matters affecting the interests or rights of victims;
 - (d) to assist in the coordination of organisations involved in, and initiatives for, the provision of services to victims, including services provided by the Territory;
 - (e) any other functions conferred on it by the Minister or under this or any other Act.

(2) When referring a matter to the Advisory Committee for an investigation, report and recommendations, the Minister may require the report and recommendations within a specified time.

(3) The Advisory Committee has the powers necessary or convenient for the performance of its functions.

PART 4 – VICTIMS REGISTER

17. Application of Part

This Part applies only in relation to an offender who is sentenced to a term of imprisonment in the Territory for a relevant offence, regardless of any of the following:

- (a) whether the offence was committed in the Territory or elsewhere;
- (b) whether the offence was committed before the commencement of this Part;
- (c) whether all or a part of the term of imprisonment is suspended;
- (d) the age of the offender.

18. Relevant offence

A relevant offence is:

- (a) a criminal offence involving the threat or use of violence, regardless of whether the violence is threatened or used against a person; or
- (b) in relation only to a person mentioned in section 19(2)(d) – an offence against section 213 of the Criminal Code.

19. Eligibility to be registered

(1) The following persons are eligible to be registered in relation to an offender:

- (a) a person who suffers an injury as a direct result of the relevant offence (an "injured person");
- (b) a legal guardian of an injured person who is a child or suffers from a disability;
- (c) with the approval of the Director – a concerned person.

(2) For subsection (1)(c), a concerned person is any of the following persons:

- (a) a primary care-giver or family member of an injured person;
- (b) a person nominated by an injured person to receive information on his or her behalf;
- (c) if the relevant offence is an offence against section 211 of the Criminal Code – a person against whom the offender threatens or uses violence during the commission of the relevant offence;
- (d) if the relevant offence is an offence against section 213 of the Criminal Code – a person inside the building during the commission of the relevant offence;
- (e) a person on whose behalf a restraining order is in force under the *Domestic Violence Act* against the offender at the time the offender committed, or is sentenced for, the relevant offence;
- (f) a person against whom the offender has a history of using domestic violence;
- (g) a primary care-giver or family member of a person mentioned in paragraph (e) or (f);

(h) a person who has a substantial concern with the relevant offence.

(3) In this section:

"injury" has the same meaning as in the *Victims of Crime Assistance Act*.

20. Application for person to be entered on register

(1) A person may apply to the Director to be registered in relation to an offender:

(a) after the offender is sentenced for the relevant offence; and

(b) before the offender is discharged from the sentence.

(2) The application must be in the approved form and lodged at an office of the CVSU by personal or postal delivery, facsimile transmission or email.

21. Decision and notice about entry on register

(1) As soon as practicable (but no later than 28 days) after lodgment of an application under section 20, the Director must decide whether or not to register the applicant and give written notice of the decision to the applicant.

(2) If the offender is a child, the Director may refuse to register the applicant if satisfied the circumstances of the offender or relevant offence do not justify the applicant being registered.

(3) The notice of the decision must be in the approved form and contain the following information:

(a) if the person is registered:

(i) the role of the CVSU in operating the register; and

(ii) the rights and obligations of the registered person; and

(iii) the information the registered person is entitled to be given and particulars relating to the giving of the information; and

(iv) any other information specified by regulation;

(b) if the person is not registered – the reasons for the decision.

(4) The discharge of the relevant offender from the sentence after the application is lodged but before the Director has made a decision does not prevent the applicant from being registered.

(5) The Director must inform the Director of Correctional Services when a person is registered and give details of the relevant offender.

22. Information to be given to registered persons

(1) The CVSU must give a registered person the following information that relates to the relevant offender:

- (a) the earliest possible date of release on parole and any changes to the date;
- (b) the date when the Parole Board is to consider release on parole;
- (c) the actual date of release on parole;
- (d) the conditions of a parole order that are relevant to the registered person or relevant offence;
- (e) the revocation or cancellation of a parole order;
- (f) transfer to another prison interstate or overseas;
- (g) escape from prison and any recapture;
- (h) the date of release from prison under a suspended sentence order;
- (i) the conditions of a suspended sentence order;
- (j) the variation, revocation, cancellation or discharge of a suspended sentence order;
- (k) the actual date of discharge from prison, unless the offender is discharged from the sentence at the end of a period of release under a parole order or suspended sentence order;
- (l) any other sentence that affects the earliest possible date of release, period of imprisonment or period of a suspended sentence order;
- (m) if known – the locality where the offender will reside while subject to a suspended sentence order or parole order or after discharge from the sentence;
- (n) the death of the offender;
- (o) any further information specified by regulation.

(2) On application to the CVSU by a registered person, the CVSU must give the registered person the following information that relates to the relevant offender:

- (a) transfer to another prison in the Territory;
- (b) the status of the security rating and any change in the status;
- (c) courses or programs undertaken for rehabilitation;
- (d) approved leave of absence from prison;
- (e) any further information specified by regulation.

(3) Subsection (1) applies even if the registered person is entered on the register after the relevant offender has been discharged from the sentence.

(4) In this section:

"suspended sentence order" means an order that suspends all or part of a term of imprisonment and imposes conditions on the relevant offender for the period during which the term of imprisonment is suspended.

23. Information to be given about consideration of parole

(1) The Secretary to the Parole Board must inform the Director of the date on which the Board is to consider the release on parole of a relevant offender:

- (a) if possible – at least one month before the date; or
- (b) as soon as practicable before the date.

(2) The CVSU must inform a registered person of the date on which the Board is to consider the release on parole of the relevant offender:

- (a) if possible – at least 28 days before the date; or
- (b) as soon as practicable before the date.

24. Registered person may make submission to Parole Board

(1) A registered person may make a written submission to the Parole Board about a relevant offender to be considered for release on parole.

(2) Subsection (1) does not prevent the Parole Board from receiving submissions from any other person.

25. Director of Correctional Services to inform CVSU

(1) The Director of Correctional Services must inform the CVSU about a matter mentioned in section 22(1) as soon as practicable after the Director of Correctional Services becomes aware of the matter.

(2) The Director of Correctional Services must inform the CVSU about a matter mentioned in section 22(2) as soon as practicable after the CVSU requests the information.

26. When information not to be given to registered person

Despite anything to the contrary in this Part, the CVSU is not obliged to give information to a registered person if the Director reasonably considers the information should not be given.

Example for section 26

There may be circumstances when giving a registered person information about the relevant offender may place the offender at risk.

27. Obligations of registered person

(1) A registered person must give the CVSU the information required by regulation.

(2) A registered person must also sign a confidentiality agreement as required by regulation.

28. Removal from register

A registered person may be removed from the register as specified by regulation.

29. Non-disclosure of confidential information

(1) A person must not disclose information about a registered person or offender given or received under this Part except:

- (a) as provided under this Part; or
- (b) with the consent of the registered person or offender about whom the information is disclosed; or
- (c) for court proceedings; or

- (d) for any other lawful reason.

Penalty: If the offender is a natural person – 400 penalty units or imprisonment for 2 years.

If the offender is a body corporate – 2 000 penalty units.

- (2) A reference in subsection (1) to a person includes a reference to the Director, a CVSU officer, a registered person and an offender.

PART 5 – MISCELLANEOUS MATTERS

30. Charter

- (1) The Minister may issue a Charter of Victims Rights.

(2) The charter is to establish principles about the way in which victims are to be treated in the justice system and may provide for any other matters relevant to the rights of victims.

31. Guidelines

(1) The Minister may issue guidelines, consistent with this Act and the Regulations, relating to the performance of functions under this Act.

(2) A person performing functions under this Act must have regard to the guidelines.

32. Protection from liability

- (1) This section applies to a person who is or has been:

- (a) the Director; or
- (b) a CVSU officer; or
- (c) the Director of Correctional Services; or
- (d) the Secretary to the Parole Board.

(2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.

(3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

33. Delegations

The following persons may delegate to a person any of their powers or functions under this Act:

- (a) the Minister;
- (b) the Director;
- (c) the Director of Correctional Services.

34. Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**PART 6 – REPEAL AND TRANSITIONAL MATTERS FOR VICTIMS OF
CRIME RIGHTS AND SERVICES ACT 2006**

35. Definition

In this Part:

"repealed Act" means the *Crime Victims Advisory Committee Act* as in force immediately before this Part comes into operation.

36. Repeal

The *Crime Victims Advisory Committee Act 1990* (Act No. 12 of 1990) is repealed.

37. Continuation of appointment of members

A member (including the Chairman) under the repealed Act continues to hold office as a member of the Advisory Committee for the remainder of the term of the member's appointment under the repealed Act.

38. Continuation of approved organisation

An organisation approved under section 4(2) of the repealed Act is taken to be an approved organisation.
