

# **Sentencing (Victim Impact Statement) Act 1994**

**No. 24 of 1994**

## **TABLE OF PROVISIONS**

### *Section*

1. Purpose
2. Commencement
3. Principal Act
4. Definitions
5. Sentencing guidelines
6. Indefinite sentence
7. New Division 1A inserted in Part 6

### **Division 1A—Victim Impact Statements**

- 95A. Victim may make victim impact statement
- 95B. Contents of victim impact statement
- 95C. Distribution of written statement
- 95D. Examination of victim
- 95E. Witnesses
8. Amendment of Children and Young Persons Act
9. New section 136A inserted in Children and Young Persons Act
- 136A. Victim impact statements



**Victoria**

**No. 24 of 1994**

## **Sentencing (Victim Impact Statement) Act 1994**

[Assented to 17 May 1994]

**The Parliament of Victoria enacts as follows:**

### ***1. Purpose***

The main purpose of this Act is to amend the **Sentencing Act 1991** and the **Children and Young Persons Act 1989** to require courts, in sentencing an offender, to have regard to the impact of the crime on the victim.

### ***2. Commencement***

- (1) Section 1, this section and section 3 come into operation on the day on which this Act receives the Royal Assent.

**Sentencing (Victim Impact Statement) Act 1994**  
**Act No. 24/1994**

- (2) Subject to sub-section (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in sub-section (2) does not come into operation within the period of 6 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

No. 49/1991.  
 Reprinted to  
 No. 60/1993.

### **3. Principal Act**

In this Act, the **Sentencing Act 1991** is called the Principal Act.

### **4. Definitions**

- (1) In section 3 (1) of the Principal Act—
  - (a) in paragraph (b) of the definition of “sexual offence”, after “and which the” insert “court, or in the case of the Supreme Court or the County Court,”;
  - (b) after the definition of “undertaking” insert—
 

“**“victim”**, in relation to an offence, means a person who, or body that, has suffered injury, loss or damage as a direct result of the offence, whether or not that injury, loss or damage was reasonably foreseeable by the offender;”;
  - (c) in paragraph (d) of the definition of “violent offence”, after “and which the” insert “court, or in the case of the Supreme Court or the County Court,”.
- (2) In section 3 (2) of the Principal Act—
  - (a) in paragraph (a)—
    - (i) in sub-paragraph (i) after “trials” insert “or hearings”;
    - (ii) in sub-paragraph (iii) after “trial” insert “or hearing”;

- (b) in paragraph (c) for “judge presiding at the trial for” substitute “court convicting the offender of”.

**5. Sentencing guidelines**

In section 5 (2) of the Principal Act, after paragraph (d) insert—

- “(da) the personal circumstances of any victim of the offence; and
- (db) any injury, loss or damage resulting directly from the offence; and”.

**6. Indefinite sentence**

- (1) In section 18E of the Principal Act, after sub-section (2) insert—

“(3) A hospital security order made under section 93 (1) (e) (as applied by sub-section (2) of this section) has effect for all purposes as an indefinite sentence.”.

- (2) In section 18F of the Principal Act, after paragraph (a) insert—

“(ab) subject to Division 1A of Part 6, take into consideration any victim impact statement made, or other evidence given, under that Division;”.

- (3) Section 18Q of the Principal Act is repealed.

**7. New Division 1A inserted in Part 6**

In Part 6 of the Principal Act, after Division 1 insert—

**“Division 1A—Victim Impact Statements**

**95A. Victim may make victim impact statement**

- (1) If a court finds a person guilty of an offence, a victim of the offence may

***Sentencing (Victim Impact Statement) Act 1994***  
***Act No. 24/1994***

make a victim impact statement to the court for the purpose of assisting the court in determining sentence.

- (2) A victim impact statement may be made—
  - (a) in writing by statutory declaration; or
  - (b) in writing by statutory declaration and orally by sworn evidence.
- (3) A victim impact statement may be made by another person on behalf of a victim—
  - (a) who is under the age of 18 years; or
  - (b) who the court is satisfied is incapable of making the statement because of mental illness or for any other reason; or
  - (c) that is not an individual.

***95B. Contents of victim impact statement***

- (1) A victim impact statement contains particulars of any injury, loss or damage suffered by the victim as a direct result of the offence.
- (2) The court may rule as inadmissible the whole or any part of a victim impact statement.

***95C. Distribution of written statement***

If the victim prepares a victim impact statement, the victim must, a reasonable time before sentencing is to take place—

- (a) file a copy with the court; and

(b) provide a copy to—

- (i) the offender or the legal practitioner representing the offender; and
- (ii) the prosecutor.

**95D. Examination of victim**

- (1) The court may, at the request of the offender or the prosecutor, call a victim who has made a victim impact statement, or a person who has made a victim impact statement on behalf of a victim, to give evidence.
- (2) A victim or other person who gives evidence under sub-section (1) may be cross-examined and re-examined.

**95E. Witnesses**

- (1) A victim, or a person who has made a victim impact statement on behalf of a victim, may call a witness to give evidence in support of any matter contained in the victim impact statement.
- (2) A witness who gives evidence under sub-section (1) may be cross-examined and re-examined.
- (3) Any party to the proceeding may lead evidence on any matter contained in a victim impact statement.”.

**8. Amendment of Children and Young Persons Act**

- (1) In section 3 (1) of the **Children and Young Persons Act 1989**, after the definition of “supervision order” insert—

“**“victim”**, in relation to an offence, means a person who, or body that, has suffered injury, loss or

*Sentencing (Victim Impact Statement) Act 1994*  
*Act No. 24/1994*

damage as a direct result of the offence, whether or not that injury, loss or damage was reasonably foreseeable by the child found guilty of the offence;’.

- (2) In section 136 of the **Children and Young Persons Act 1989**, after paragraph (d) insert—

“(e) Any victim impact statement made, or other evidence given, under section 136A.”.

**9. New section 136A inserted in Children and Young Persons Act**

After section 136 of the **Children and Young Persons Act 1989** insert—

**“136A. Victim impact statements**

- (1) If the Court finds a child guilty of an offence, a victim of the offence may make a victim impact statement to the Court for the purpose of assisting the Court in determining sentence.
- (2) A victim impact statement may be made—
  - (a) in writing by statutory declaration; or
  - (b) in writing by statutory declaration and orally by sworn evidence.
- (3) A victim impact statement may be made by another person on behalf of a victim—
  - (a) who is under the age of 18 years; or
  - (b) who the Court is satisfied is incapable of making the statement because of mental illness or for any other reason; or
  - (c) that is not an individual.
- (4) A victim impact statement contains particulars of any injury, loss or damage

suffered by the victim as a direct result of the offence.

- (5) The Court may rule as inadmissible the whole or any part of a victim impact statement.
- (6) If the victim prepares a victim impact statement, the victim must, a reasonable time before sentencing is to take place—
  - (a) file a copy with the Court; and
  - (b) provide a copy to—
    - (i) the child or the legal practitioner representing the child; and
    - (ii) the prosecutor.
- (7) The Court may, at the request of the child or the prosecutor, call a victim who has made a victim impact statement, or a person who has made a victim impact statement on behalf of a victim, to give evidence.
- (8) A victim or other person who gives evidence under sub-section (7) may be cross-examined and re-examined.
- (9) A victim, or a person who has made a victim impact statement on behalf of a victim, may call a witness to give evidence in support of any matter contained in the victim impact statement.
- (10) A witness who gives evidence under sub-section (9) may be cross-examined and re-examined.
- (11) Any party to the proceeding may lead evidence on any matter contained in a victim impact statement.”.



*Sentencing (Victim Impact Statement) Act 1994*  
*Act No. 24/1994*

NOTES

1. *Minister's second reading speech—*

*Legislative Assembly: 31 March 1994*

*Legislative Council: 26 April 1994*

2. The long title for the Bill for this Act was "A Bill to amend the **Sentencing Act 1991** and the **Children and Young Persons Act 1989** and for other purposes."
3. Section headings appear in bold italics and are not part of the Act.  
(See **Interpretation of Legislation Act 1984**.)