

1996 BILL 33

Fourth Session, 23rd Legislature, 45 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 33

VICTIMS OF CRIME ACT

THE MINISTER OF JUSTICE
AND ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 33

1996

VICTIMS OF CRIME ACT

(Assented to , 1996)

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) "Appeal Board" means the Criminal Injuries Appeal Board established under section 7;
- (b) "child" includes an illegitimate child;

- (c) “cohabitant” means a common law spouse of the opposite sex who cohabited with the victim for
 - (i) at least the 5 years immediately preceding the victim’s death, or
 - (ii) at least the 2 years immediately preceding the victim’s death, if there is a child of the common law relationship;
- (d) “Committee” means the Victims of Crime Programs Committee established under section 5;
- (e) “dependant” means a spouse, cohabitant, child or other relative of a victim who was, in whole or in part, dependent on the income of the victim at the time of the victim’s death and includes a child of the victim born after the victim’s death;
- (f) “Director” means the Director designated under section 3;
- (g) “enactment” means any Act, regulation, order or by-law enacted in relation to any matter over which the Legislature has legislative authority;
- (h) “Fund” means the Victims of Crime Fund;
- (i) “fine” includes a specified penalty;
- (j) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (k) “victim” means
 - (i) with respect to financial benefits, a person who is injured or dies as a direct result of an act or omission described in section 12(1), and
 - (ii) with respect to a program, a person who suffers a loss or injury as the result of the commission of an offence.

Principles

2(1) The following principles apply to the treatment of victims:

- (a) victims should be treated with courtesy and compassion and with respect for their dignity and privacy and should suffer the minimum of necessary inconvenience from their involvement in the criminal justice system;

- (b) victims should promptly receive, in accordance with this Act and the regulations, financial benefits for the injuries that they have suffered;
 - (c) information should be made available to victims about their participation in criminal proceedings and scheduling, progress and ultimate disposition of the proceedings;
 - (d) where appropriate, the views and concerns of victims should be considered and appropriate assistance provided throughout the criminal process;
 - (e) if the personal interests of victims are affected, the views or concerns of the victims should be brought to the attention of the court, where appropriate and consistent with criminal law and procedure;
 - (f) measures should be taken when necessary to ensure the safety of victims and their families and to protect them from intimidation and retaliation;
 - (g) victims should be informed of the availability of relevant services.
- (2) Victims should report the crime and co-operate with law enforcement authorities.

Director

3(1) The Minister may designate an employee under the administration of the Minister as the Director to carry out the duties and functions of the Director under this Act.

(2) The duties and functions of the Director include

- (a) providing victims and their dependants with general information concerning
 - (i) the structure and operation of the justice system,
 - (ii) victim services, and
 - (iii) this Act,
- (b) on request by victims who feel they have not been treated in accordance with the principles of this Act, providing information on how to resolve their concerns,
- (c) in accordance with section 13, evaluating applications for and making decisions respecting eligibility for financial benefits, and

(d) any other duties assigned by the Minister.

(3) The Director may delegate his duties to an employee under the administration of the Minister.

Information

4(1) Subject to the limits imposed by the availability of resources, enactments, including the *Young Offenders Act* and the *Young Offenders Act* (Canada), and other limits that are reasonable in the circumstances of each case, a victim, on request and at the earliest opportunity, is to be provided with information by the person or agency that has the information with respect to the case, on

(a) the status of the police investigation and any prosecution that results from that investigation, if the information does not harm a law enforcement matter nor harm investigative techniques and procedures currently used, or likely to be used, in law enforcement;

(b) the role of the victim and of the other persons involved in the prosecution of the offence;

(c) court procedures;

(d) any opportunity for the victim to make representations to the court on the impact of the offence on the victim.

(2) For the purposes of this section, “victim” in relation to an offence means a person to whom harm has been done or who suffers physical or emotional loss as a result of the commission of the offence and, if the person is dead, ill or otherwise incapable, includes the spouse, cohabitant or any relative of that person or anyone who has custody of that person in law or in fact or who is responsible for the care or support of that person.

Committee

5(1) A Victims of Crime Programs Committee is established consisting of at least 3 but not more than 5 members appointed by the Minister.

(2) The Minister may designate one of the members of the Committee to chair the Committee.

(3) Members of the Committee who are not employees of the Government may be paid remuneration, and may receive reasonable travelling and living expenses while away from their ordinary places of residence in the course of their duties as members of the Committee, at rates prescribed by the Minister.

- Duties of the Committee **6** At the request of the Director, the Committee is to
- (a) evaluate applications for grants for programs,
 - (b) provide information with respect to programs and services that assist victims, and
 - (c) undertake other duties related to the administration of this Act.
- Appeal Board **7(1)** A Criminal Injuries Appeal Board is established consisting of up to 3 members appointed by the Minister, one of whom must be a physician.
- (2)** The Minister may designate one of the members of the Appeal Board to chair the Appeal Board.
 - (3)** Members of the Appeal Board who are not employees of the Government may be paid remuneration, and may receive reasonable travelling and living expenses while away from their ordinary places of residence in the course of their duties as members of the Appeal Board, at rates prescribed by the Minister.
 - (4)** The quorum of the Appeal Board is 2 members.
- Surcharge **8(1)** If a fine is imposed on a person who is convicted of an offence under an enactment, the person must pay a surcharge unless
- (a) the offence is a contravention of a municipal by-law or a Metis settlement by-law, or
 - (b) the offence is excluded from the application of this section by the regulations.
- (2)** The amount of a surcharge is the amount provided for in the regulations.
 - (3)** The surcharge may be collected in the same manner as a fine.
 - (4)** Notwithstanding any other enactment, any payment made by or on behalf of a person convicted of an offence is to be applied first to payment in full of the surcharge.
 - (5)** Notwithstanding any other enactment, the proceeds of the surcharge must be deposited in the Fund.
 - (6)** Section 34(1) of the *Corrections Act* and section 718.1 of the *Criminal Code* (Canada) do not apply to a surcharge.

Fund **9(1)** The Victims' Programs Assistance Fund is continued as the "Victims of Crime Fund".

(2) The following must be deposited into the Fund:

- (a) money from victim fine surcharges collected in Alberta pursuant to section 727.9 of the *Criminal Code* (Canada) directed by the Lieutenant Governor in Council to be paid into the Fund;
- (b) money collected from surcharges under this Act;
- (c) money received by the Crown for the purpose of assisting victims;
- (d) money appropriated by the Legislature for the purposes of the Fund;
- (e) subject to section 19(2), money received as repayment of a financial benefit under this Act;
- (f) money received as repayment of a grant under this Act;
- (g) money received as repayment of a financial benefit that is a debt due to the Crown pursuant to section 16(3);
- (h) money payable to the Crown in right of Alberta under an agreement with the Crown in right of Canada respecting assistance to victims that is approved by the Minister for deposit in the Fund.

(3) The Provincial Treasurer holds and administers the Fund.

(4) The income of the Fund accrues to and forms part of the Fund.

(5) The Provincial Treasurer may be designated as a depositor in a Consolidated Cash Investment Trust Fund on behalf of the Fund.

Use of Fund **10(1)** The Minister may, in accordance with this Act and the regulations, request that payments be made from the Fund

- (a) for grants under section 11;
- (b) for costs incurred by the Committee and Appeal Board in carrying out their duties under this Act;
- (c) for remuneration and expenses payable to the members of the Committee and the Appeal Board;

(d) for financial benefits payable pursuant to sections 13, 15 and 19(3);

(e) to pay the costs of administering this Act.

(2) The Provincial Treasurer may, at the request of the Minister under subsection (1) made on reasonable notice, pay money from the Fund in accordance with the request.

Grants

11 The Minister may, in accordance with the regulations and on the recommendation of the Committee, make grants with respect to programs that benefit victims of crime.

Eligibility for financial benefits

12(1) Subject to subsection (4),

(a) a victim in respect of the victim's injury, or

(b) a dependant in respect of a victim's death,

may, in accordance with the regulations, apply to the Director for financial benefits if the injury or death was the direct result of an act or omission that occurred in Alberta and is one of the offences under the *Criminal Code* (Canada) specified in the regulations.

(2) An application under subsection (1)

(a) must be made within one year of the date of the injury or death or within one year of the date when the victim becomes aware of or knows or ought to know the nature of the injuries and recognizes the effects of the injuries, and

(b) may be made only with respect to an act or omission that was reported, within a reasonable time after it happened, to the appropriate law enforcement authority.

(3) Notwithstanding subsection (2)(a), the Director may extend the period of time for making an application if in the opinion of the Director it is appropriate to do so.

(4) The following are not eligible for financial benefits:

(a) a person who is convicted of a criminal offence arising from the events that resulted in the injury or death of the person;

(b) a peace officer whose injury or death occurs in the course of carrying out the duties of a peace officer;

- (c) a dependant of a person described in clause (a) or (b) unless the dependant is also a dependant of another person who is a victim as a result of the same events.

Determining
financial
benefits

13(1) On receipt of an application for financial benefits, the Director must determine, in accordance with this Act and the regulations, whether financial benefits are payable and the amount of those financial benefits, if any.

(2) Subject to the regulations, for the purpose of determining the amount of financial benefits, the Director may

- (a) require the applicant to provide information respecting how the injuries were acquired and describing the injuries suffered by the victim or dependant resulting from the victim's injury or death, and

- (b) receive in evidence any statement, document, information or matter that, in the opinion of the Director, may assist in dealing with the application, whether or not the statement, document, information or matter would be admissible as evidence in a court of law.

(3) In determining the amount of financial benefits, if any, to be paid to or on behalf of a victim or dependant, the Director may, in accordance with the regulations, reduce the amount of the financial benefits if in the opinion of the Director, subject to the regulations, the victim's conduct directly or indirectly contributed to the victim's injury or death.

(4) The Director must

- (a) give written notice of the determination under this section to the applicant, and

- (b) notify the applicant that the applicant may appeal the determination and may request that the appeal be in person or by written submission.

(5) The Director's determination under this section may be appealed to the Appeal Board in accordance with the regulations.

Appeals

14(1) The Appeal Board must hear appeals with respect to the Director's determination of financial benefits and the review, variance or rescission of an order pursuant to section 15.

(2) The Appeal Board may, with respect to an application, review all matters submitted to the Director and all evidence considered by

the Director whether or not they would be admissible in a court of law.

(3) The Appeal Board may

- (a) request persons with special technical knowledge to advise the Appeal Board on matters relevant to an appeal, and
- (b) require an applicant to undergo a medical examination by a physician named or approved by the Appeal Board.

(4) The Appeal Board may

- (a) rescind, confirm or vary the decision of the Director as to eligibility for financial benefits under this Act or under an order under the *Criminal Injuries Compensation Act*, and
- (b) confirm the determination of the Director or vary the determination of the Director as to the amount of financial benefits, determined in accordance with the regulations under this Act, by increasing or decreasing the amount to be paid.

(5) The decision of the Appeal Board is final and there is no appeal from the decision except on a question of jurisdiction or on a question of law.

Payments

15(1) Subject to subsection (2), if The Crimes Compensation Board under the *Criminal Injuries Compensation Act* made an order for the payment of compensation including periodic payments and all the payments ordered by that Board have not been paid, the Minister must, subject to there being sufficient money in the Fund, continue to make the payments, as financial benefits, as ordered by that Board.

(2) The Director may, in accordance with this Act, review and rescind, confirm or vary an order under the *Criminal Injuries Compensation Act* under which payments are paid or payable

(a) on an application by or on behalf of the person to whom or for whose benefit compensation is payable under the *Criminal Injuries Compensation Act*, or

(b) on the Director's own initiative.

(3) The Director may impose any terms and conditions that the Director considers appropriate on an order reviewed pursuant to subsection (2).

(4) The Director's determination under this section may be appealed to the Appeal Board in accordance with the regulations.

(5) This Act and the regulations under this Act apply to reviews of orders made under the *Criminal Injuries Compensation Act* and to appeals of those reviews.

False
statements

16(1) No person shall make a false or misleading statement in an application for financial benefits or a grant.

(2) A person who contravenes subsection (1) is guilty of an offence.

(3) If a person is convicted of an offence under this section, any financial benefits or grant paid to that person under this Act may be recovered by the Minister as a debt due to the Crown.

Regulations

17 The Lieutenant Governor in Council may make regulations

(a) listing offences with respect to which a surcharge is not imposed;

(b) providing for the amount, or for a method of calculating the amount, of the surcharge;

(c) respecting payments under section 10;

(d) respecting grants for programs under section 11 and the amounts of the grants;

(e) respecting applications for grants;

(f) respecting the conditions on which a grant is made and requiring the repayment of the grant or a part of the grant to the Fund if the conditions are not met;

(g) requiring a recipient of a grant to account for how the grant is spent;

(h) specifying offences under the *Criminal Code* (Canada) for the purposes of section 12(1);

(i) respecting applications for financial benefits and the evaluation of those applications;

(j) describing conduct for which and providing for amounts by which financial benefits are to be reduced for the purposes of section 13(3);

- (k) respecting the classes of injury, damages and expenses with respect to which financial benefits are payable;
- (l) prescribing the amounts, including the maximum amount, of financial benefits payable with respect to any class of injury or expense and with respect to any one application;
- (m) respecting terms and conditions to be imposed on the payment of financial benefits and how and when the payments of financial benefits are to be made;
- (n) respecting appeals to the Appeal Board.

Cause of action not created

18 Subject to sections 14(5) and 16(2) and (3), no cause of action, right of appeal, claim for damages or other remedy in law exists because of this Act or anything done or omitted to be done under this Act.

Transitional

19(1) *On the coming into force of this Act an application for compensation that has been made to The Crimes Compensation Board for which the Board has not made an order of compensation and that the Board has not dismissed continues as an application for financial benefits under this Act.*

(2) *Any repayment to the Crown made after the coming into force of this Act for compensation paid pursuant to the Criminal Injuries Compensation Act is to be paid into the General Revenue Fund.*

(3) *If an order was made for compensation under the Criminal Injuries Compensation Act but on the coming into force of this Act the compensation has not been paid, the order continues as if it were a decision to pay financial benefits under this Act and, subject to section 15, the compensation continues to be payable as financial benefits under this Act.*

(4) *On the coming into force of this Act an application for a grant under the Victims' Programs Assistance Act continues as an application for a grant under this Act.*

Consequential

20(1) *The Conflicts of Interest Act is amended in Part 3 of the Schedule by striking out "The Crimes Compensation Board" and substituting "Criminal Injuries Appeal Board".*

(2) *The Provincial Offences Procedure Act is amended in section 13(1) by adding "section 8(5) of the Victims of Crime Act and" after "Subject to".*

Repeal **21** *The Criminal Injuries Compensation Act and the Victims' Programs Assistance Act are repealed.*

Coming into
force **22** *This Act comes into force on Proclamation.*