

2011 Bill 15

Fourth Session, 27th Legislature, 60 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 15

VICTIMS OF CRIME AMENDMENT ACT, 2011

THE SOLICITOR GENERAL AND MINISTER OF PUBLIC SECURITY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 15

2011

VICTIMS OF CRIME AMENDMENT ACT, 2011

(Assented to _____, 2011)

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

Amends RSA 2000 cV-3

1 The *Victims of Crime Act* is amended by this Act.

2 Section 1 is amended

(a) by repealing clause (b);

(b) by repealing clause (e);

(c) by adding the following after clause (k):

(k.01) “police service” means a police service as defined in the
Police Act and includes any other police service
prescribed in the regulations;

(d) in clause (l)

(i) in subclause (i)

(A) by striking out “or dies”;

(B) by striking out “and”;

(ii) by adding the following after subclause (i):

Explanatory Notes

1 Amends chapter V-3 of the Revised Statutes of Alberta 2000.

2 Section 1 presently reads in part:

1 In this Act,

(b) “child” includes an illegitimate child;

(e) “dependant” means a spouse or adult interdependent partner, 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;

(l) “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.

- (i.1) with respect to a death benefit, a person who dies as a direct result of an act or an omission described in section 12.1, and

3 Section 2(2) is amended by striking out “law enforcement authorities” and substituting “a police service”.

4 Section 3(2) is amended by striking out “and” at the end of clause (c) and by adding the following after clause (c):

- (c.1) in accordance with section 13.01, evaluating applications for and making decisions respecting eligibility for death benefits, and

5 Section 6(a) is repealed and the following is substituted:

- (a) evaluate applications for grants relating to programs intended to benefit victims of crime, and provide recommendations to the Minister based on those evaluations,

6 Section 7(6) is repealed.

3 Section 2(2) presently reads:

(2) Victims should report the crime and co-operate with law enforcement authorities.

4 Section 3 presently reads in part:

(2) The duties and functions of the Director include

(a) providing victims and their families 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.

5 Section 6 presently reads in part:

6 At the request of the Director, the Committee is to

(a) evaluate applications for grants for programs,

6 Section 7(6) presently reads:

7 Section 7.1 is amended

(a) by repealing subsection (2) and substituting the following:

(2) Where a review is required under this Act, the chair must designate up to 3 members of the Review Board, who may include the chair, to sit as a panel to conduct the review.

(b) by adding the following after subsection (2):

(2.1) A member of the Review Board, including the chair, is not eligible to sit as a member of a panel to conduct a review of the same matter in respect of which that member has evaluated an application under section 14(4).

(c) in subsection (7) by striking out “hearing” wherever it occurs and substituting “review”;

(d) in subsection (9) by striking out “hearings” and substituting “reviews”.

8 Section 9(2) is amended by adding the following after clause (h):

- (i) a percentage of money from fines collected in Alberta pursuant to the *Youth Criminal Justice Act* (Canada) and any regulations made under that Act for the purpose of providing assistance to victims.

(6) The Review Board and each member of the Review Board have all the powers of a commissioner under the Public Inquiries Act.

7 Section 7.1 presently reads in part:

(2) Where a hearing is required under this Act, the chair must designate any 3 members of the Review Board to sit as a panel, which may include the chair, to conduct the hearing.

(7) When a hearing is conducted by a panel and one of the members of the panel for any reason does not attend on any day or part of a day, the 2 remaining members present may exercise the powers and perform the duties of the panel with respect to that hearing.

(9) The Review Board may, subject to the approval of the Lieutenant Governor in Council, make rules governing the Board's and a panel's procedure and hearings.

8 Section 9(2) presently reads:

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

- (a) money from victim fine surcharges collected in Alberta pursuant to section 737 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;*
- (c.1) money received pursuant to the Victims Restitution and Compensation Payment Act;*

9 Section 10 is amended

(a) by repealing clause (a) and substituting the following:

(a) for grants relating to programs that benefit victims of crime;

(a.1) for programs that benefit victims of crime;

(b) in clause (d) by striking out “and 19(3)” and substituting “and 19(2)”;

(c) by adding the following after clause (d):

(d.1) for death benefits payable pursuant to section 13.01;

10 Section 11 is repealed.

11 Section 12 is repealed and the following is substituted:

- (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.*

9 Section 10(a) and (d) presently read:

10 The Minister may, in accordance with this Act and the regulations, make payments from the Fund

- (a) for grants under section 11;*
- (d) for financial benefits payable pursuant to sections 13, 15 and 19(3);*

10 Section 11 presently reads:

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.

11 Section 12 presently reads:

12(1) Subject to subsection (4), the following persons may, in accordance with the regulations, apply to the Director for financial benefits if the injury to or death of a victim was the direct result of

Eligibility for financial benefits

12(1) Subject to subsection (2), a victim may apply to the Director for financial benefits in accordance with the regulations if the injury to the victim was the direct result of an act or omission that occurred in Alberta and that is one of the offences under the *Criminal Code* (Canada) specified in the regulations.

(2) A victim who is convicted of a criminal offence arising from the events that resulted in the injury is not eligible for financial benefits.

an act or omission that occurred in Alberta and is one of the offences under the Criminal Code (Canada) specified in the regulations:

- (a) in respect of the victim's injury, the victim;*
 - (b) in respect of the victim's death, a dependant or, if the victim dies leaving no dependants,
 - (i) a spouse or adult interdependent partner, parent, child, sister or brother of the victim who is not a dependant, or*
 - (ii) any other person who in the opinion of the Director is eligible for financial benefits.**
- (2) An application under subsection (1)*
- (a) must be made within 2 years from the date of the injury or death or within 2 years from 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 dependant of a person described in clause (a) unless the dependant is also a dependant of another person who is a victim as a result of the same events;*
 - (c) a spouse or adult interdependent partner, parent, child, sister or brother of a person described in clause (a) who is not a dependant unless, in the case of a parent, child, sister or brother, the parent, child, sister or brother is also a parent, child, sister or brother of another person who is a victim as a result of the same events.*

12 The following is added after section 12:

Eligibility for death benefit

12.1 The persons prescribed in the regulations may apply for a death benefit in respect of the death of a victim for the purposes of funeral costs and any other purposes prescribed in the regulations if the death of the victim was the direct result of an act or omission that occurred in Alberta and that is one of the offences under the *Criminal Code* (Canada) specified in the regulations.

Application for benefits

12.2(1) An application under section 12 or 12.1 may be made only if the offence was reported to a police service within a reasonable period of time after the offence occurred.

(2) Subject to section 12.3, an application under section 12 or 12.1 must be made

- (a) within 2 years after the date on which the victim or applicant, as the case may be, first knew, or in the circumstances ought to have known, that the offence occurred, or
- (b) within 10 years after the offence occurred,

whichever period expires first.

Application where victim was a minor

12.3 If the victim was a minor at the time the offence occurred, an application under section 12 must, subject to the regulations, be made within 10 years from the date the victim reaches the age of majority.

13 Section 13 is amended

(a) in subsection (3)

(i) in clause (a) by striking out “applicant or”;

(ii) in clause (b)

(A) by striking out “applicant or”;

12 Death benefit and application for benefits.

13 Section 13 presently reads in part:

(3) The Director may dismiss an application made under subsection (1)

(a) if the Director determines that the applicant or victim is not eligible under section 12,

(b) if, in the opinion of the Director, the applicant or victim

- (B) in subclause (i) by striking out “or death”;**
- (b) in subsection (4) by striking out “or death”.**

14 The following is added after section 13:

Determining death benefit

13.01 On receipt of an application for a death benefit, the Director must determine, in accordance with the regulations, whether the applicant is eligible for a death benefit and if so, the amount of the death benefit.

15 Section 13.1 is amended

(a) in subsection (1)

- (i) by adding “or a death benefit” after “for financial benefits”;**
- (ii) by adding “or the amount of that death benefit” after “those financial benefits”;**

(b) in subsection (2)

- (i) in clause (a) by striking out “law enforcement agency” and substituting “police service”;**
- (ii) in clause (c)**
 - (A) by adding “or a death benefit” after “for financial benefits”;**

- (i) *did not fully cooperate with any investigation into the events that resulted in the injury or death of the victim, or*
- (ii) *did not provide information required under subsection (2)(a),*

or

- (c) *for any other reason provided for in the regulations.*

(4) Subject to the regulations, if, in the opinion of the Director, the victim's conduct directly or indirectly contributed to the victim's injury or death, the Director may, in accordance with the regulations, deny the payment of any financial benefits or reduce the amount of the financial benefits.

14 Determining death benefits.

15 Section 13.1 presently reads:

13.1(1) The Director is authorized to collect information, including personal information that the Director reasonably believes is necessary, for the purpose of determining whether a person is eligible for financial benefits under this Act or determining the amounts of those financial benefits.

(2) The Director is authorized for the purposes of subsection (1) to collect and use information, including personal information, from

- (a) *a law enforcement agency relating to the event that resulted in the injury or death of the victim or to determine previous conduct of the victim,*
- (b) *a person who provided diagnostic, treatment or care or other similar medical services to the victim, or*

(B) by adding “or the amount of that death benefit” **after** “those financial benefits”;

(c) in subsection (3)

(i) by adding “or a death benefit” **after** “for financial benefits”;

(ii) by adding “or the amount of that death benefit” **after** “those financial benefits”;

(d) in subsection (4)(a)

(i) by adding “or a death benefit” **after** “for financial benefits”;

(ii) by adding “or the amount of that death benefit” **after** “those financial benefits”.

16 Section 14 is repealed and the following is substituted:

Review by chair or member designated by chair

14(1) Within 30 days of receiving a copy of the Director’s decision under section 15.1, a person may apply to the Review Board in writing for a review of a decision of the Director made under section 13, 13.01 or 15.

(2) The Review Board may, on application made before or after the expiry of the period of time referred to in subsection (1), extend that period of time where the Review Board is of the opinion that there are sufficient grounds for doing so.

(3) On receipt of an application for review, the chair of the Review Board, or a member designated by the chair, must

(c) *a public body as defined in the Freedom of Information and Protection of Privacy Act to determine or verify whether a person is eligible for financial benefits under this Act or to determine the amounts of those financial benefits.*

(3) *The persons, bodies and agencies referred to in subsection (2) are authorized to provide information, including personal information, to the Director for the purpose of determining whether a person is eligible for financial benefits under this Act or determining the amounts of those financial benefits.*

(4) *The Director may disclose information, including personal information, collected under this Act*

(a) *to any person for the purpose of determining whether a person is eligible for financial benefits under this Act or determining the amounts of those financial benefits, or*

(b) *to a parent, spouse or adult interdependent partner, child or other family member of an applicant or victim or to a recognized victim services agency for the purpose of*

(i) *confirming the existence or status of an application received from an applicant or victim, or*

(ii) *disclosing the amount of any award if, in the Director's opinion, it would not be an unreasonable invasion of the applicant's or victim's personal privacy.*

16 Section 14 presently reads:

14(1) A person may apply to the Review Board for a review of a decision of the Director under section 13 or 15 not later than 30 days after the receipt of a copy of the decision of the Director provided under section 15.1.

(2) The Review Board may, on an application made before or after the expiry of the period referred to in subsection (1), extend that period where the Review Board is of the opinion that there are sufficient grounds for doing so.

(3) On receipt of an application for review, the chair of the Review Board or a member designated by the chair must evaluate the application to determine whether there are grounds for the review

notify the Director of the application for review, and the Director, on receiving notice of the application for review, must provide the chair or the member designated by the chair with a copy of all evidence considered by the Director and the Director's notes, decision and reasons for the decision.

(4) The chair or member designated by the chair must evaluate the application and all material provided by the Director under subsection (3) and determine whether the application

- (a) is frivolous, vexatious or made in bad faith,
- (b) has no grounds, or
- (c) contains new material information.

(5) If the chair or member designated by the chair determines under subsection (4)(a) that the application is frivolous, vexatious or made in bad faith, or determines under subsection (4)(b) that the application has no grounds, the chair or member designated by the chair may dismiss the application and notify the applicant and the Director of the decision.

(6) If the chair or member designated by the chair determines under subsection (4)(c) that the application contains new material information, the chair or member designated by the chair must refer the matter back to the Director for reconsideration of the Director's decision in light of the new material information and must notify the applicant of the referral.

(7) If the application is neither dismissed under subsection (5) nor referred back to the Director under subsection (6), the chair or member designated by the chair must refer the matter to the Review Board for review in accordance with section 7.1 and must

- (a) notify the Director of the referral, and
- (b) notify the applicant of
 - (i) the referral,

or if the application is frivolous or vexatious, and if the chair or the designate is of the opinion that there are no grounds or that the application is frivolous or vexatious, the chair or the designate may dismiss the application.

(4) The Review Board may, with respect to an application, review all evidence considered by the Director whether or not it would be admissible in a court of law.

(5) The Review Board may

(a) request persons with special technical knowledge to advise the Review Board on matters relevant to a review, and

(b) require a victim to undergo a medical examination by a physician named or approved by the Review Board.

(6) The Review Board may

(a) rescind, confirm or vary a decision of the Director as to eligibility for financial benefits under this Act or under an order under the Criminal Injuries Compensation Act,

(b) rescind or confirm a decision of the Director made under section 13(3)(b) or (c), or

(c) 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.

(7) If significant new evidence is provided to the Review Board, the Review Board may refer the matter back to the Director to review the original decision, taking into account the new evidence.

(8) As soon as possible after making a decision under this section, the Review Board must provide the applicant and the Director with a copy of the decision.

(9) Subject to subsection (10) and section 14.1, a decision of the Review Board is final.

(10) The Minister may, on an application for judicial review, challenge a decision of the Review Board that rescinds

- (ii) the applicant's right to request access to or to receive a copy of all evidence considered by the Director and the Director's notes, decision and reasons for the decision within 15 days of receiving notice of the referral, and
- (iii) the applicant's right to provide written submissions to the Review Board.

(8) If the applicant requests access to or requests a copy of the evidence considered by the Director and the Director's notes, decision and reasons for the decision, the applicant has 30 days from the date the applicant receives access to or receives a copy of the evidence, notes, decision and reasons for the decision to provide written submissions to the Review Board.

(9) If the applicant does not request access to or request a copy of the evidence considered by the Director and the Director's notes, decision and reasons for the decision, the applicant has 30 days from the expiry of the 15-day period referred to in subsection (7)(b)(ii) to provide written submissions to the Review Board.

(10) The chair or member designated by the chair may, on application by the applicant made before or after the expiry of the period of time referred to in subsection (7)(b)(ii), extend that period of time where the chair or member designated by the chair is of the opinion that there are sufficient grounds for doing so.

(11) Notwithstanding subsection (7)(b)(iii), the chair or member designated by the chair may permit the applicant to make oral submissions if the chair or member designated by the chair is of the opinion that there are sufficient grounds for doing so, and must notify the Director of the permission.

(12) If, at any stage of the review process, the chair or member designated by the chair determines new material information exists, the chair or member designated by the chair must refer the matter back to the Director for reconsideration of the Director's decision in respect of the new material information.

- (a) a decision of the Director under section 13(3) to dismiss an application, or*
- (b) a decision of the Director under section 13(4) to deny payment of financial benefits.*

Review by Review Board

14.01(1) On receiving an applicant's written submissions pursuant to section 14(8) or (9), if any, the Review Board must provide a copy of the applicant's written submissions to the Director and notify the Director that the Director may provide submissions in response to the applicant's submissions within 15 days of receiving a copy of the applicant's submissions.

(2) On receiving the Director's written submissions, if any, the Review Board must provide a copy of the written submissions to the applicant.

(3) If the applicant receives permission to make oral submissions to the Review Board, the Director may, if the Director chooses, also make oral submissions to the Review Board on a date to be determined by the Review Board.

(4) The Review Board, after reviewing the application, the evidence considered by the Director and the Director's notes, decision and reasons for the decision and all submissions made by the applicant and the Director, may

- (a) rescind, confirm or vary an order made under the former Act,
- (b) rescind or confirm a decision of the Director respecting the eligibility of the applicant to receive financial benefits or a death benefit,
- (c) rescind or confirm a decision of the Director made under section 13(3)(b) or (c), or
- (d) confirm the determination of the Director or vary the determination of the Director as to the amounts of financial benefits or the amount of the death benefit determined in accordance with the regulations by increasing or decreasing the amounts to be paid.

(5) If the Review Board rescinds a decision of the Director under subsection (4), the Review Board must refer the matter back to the Director for reconsideration and must notify the applicant and the Director of the Review Board's decision.

(6) Subject to section 14.1, a decision of the Review Board under subsection (4) is final.

(7) If, at any stage of the review process, the Review Board determines new material information exists, the Review Board must refer the matter back to the Director for reconsideration of the Director's decision in respect of the new material information.

17 Section 14.1(1) is amended by adding "Director or the" after "The".

18 Section 15.1 is amended by adding ", 13.01" after "section 13".

19 Section 17 is amended

(a) by adding the following after clause (b):

- (b.1) prescribing police services for the purposes of this Act;
- (b.2) respecting applications for a death benefit, including prescribing the persons who may apply for a death benefit and prescribing the time period within which an application for a death benefit must be made, and the evaluation of those applications;
- (b.3) prescribing the amount of a death benefit and the purposes for which a death benefit may be used;

17 Section 14.1(1) presently reads:

14.1(1) The applicant may appeal a decision of the Review Board to the Court of Appeal only on a question of jurisdiction or on a question of law.

18 Section 15.1 presently reads:

15.1 After making a decision under section 13 or 15, the Director must provide the applicant with a copy of the decision and must advise the applicant

- (a) that the applicant may apply to have the Director's decision reviewed by the Review Board, and*
- (b) that the applicant may request that the review be conducted in person or by written submission.*

19 Adds additional regulation-making authority.

- (b) in clause (d) by striking out “section 11” and substituting “section 10”;
- (c) in clause (h) by striking out “section 12(1)” and substituting “sections 12(1) and 12.1”.

20 The following is added after section 19:

Transitional

20 Where a person has applied to the Review Board for a review of a decision of the Director and the review has not been concluded or dismissed before the coming into force of the *Victims of Crime Amendment Act, 2011*, the review must continue to be dealt with in accordance with this Act and the regulations as they read immediately before the coming into force of the *Victims of Crime Amendment Act, 2011*.

21 The Family Law Statutes Amendment Act, 2010 is amended by repealing section 1(50).

22 This Act comes into force on Proclamation.

20 Transitional.

21 Amends SA 2010 c16.

22 Coming into force.

