

**TITLE 6: CRIMES AND CRIMINAL PROCEDURE**  
**DIVISION 9: CRIMINAL JUSTICE SYSTEM COMPONENTS**

**§ 9101. Definitions.**

As used in this chapter, the following phrases have the meaning indicated, unless the context clearly indicates otherwise:

(a) “Victim” means a person, other than a perpetrator, who has suffered direct physical, emotional or economic harm as a result of the commission of a crime; including, but not limited to:

- (1) The actual victim of the crime;
- (2) The immediate surviving family of the actual victim;
- (3) In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, any of the following (in order of preference):
  - (A) A spouse;
  - (B) A legal guardian;
  - (C) A parent;
  - (D) A child;
  - (E) A sibling;
  - (F) Another family member; or
  - (G) Another person designated by the court.
- (4) Any corporation, business, estate, trust, partnership, association, joint venture, government, governmental department, agency or instrumentality, or any other legal or commercial entity when that entity is a direct victim of a crime; and
- (5) Any other person whom the court determines has suffered economic loss as a result of the probationer’s criminal activities.

The term “victim” shall not include the defendant, any co-probationer, accomplice or co-participant in the probationer’s criminal activities.

(b) “Victim Impact Statement” means a statement providing information about the financial, emotional, and physical effects of the crime on the victim and the victim’s family with specific information about the circumstances surrounding the commission of the crime, and the manner in which the crime was perpetrated.

(c) “Responsible official” means a person designated pursuant to 6 CMC § 9105 to perform the functions of a responsible official under that section.

**Source:** PL 10-81, § 3, modified; (a) amended by PL 15-46, § 8.

**Commission Comment:** PL 10-81 took effect January 6, 1998. According to PL 10-81, §§ 1 and 2:

Section 1. Short Title. This Act shall be known and cited as the “Victims’ Rights Act”.

Section 2. Findings. The Legislature finds and declares that an effective criminal justice system requires the protection and assistance of innocent victims of criminal acts in order to preserve their individual dignity. It is the intent of the Legislature to assist crime victims by recognizing and implementing fundamental rights of crime victims.

Further, the Legislature finds and declares that:

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(1) The financial, emotional, and physical effects of a criminal act on the victim and the victim's family are among the essential factors to be considered in the sentencing of the person responsible for the crime;

(2) In order to impose a just sentence, the court must obtain and consider information about the adverse impact of the crime upon the victim and the victim's family as well as information from and about the defendant; and

(3) The victim of the crime or a relative of the victim is usually in the best position to provide information to the court about the direct impact of the crime on the victim and the victim's family.

Therefore, the purpose of this Act is to:

(1) establish an Office of Victims' Rights within the Criminal Justice Planning Agency;

(2) require that a victim's rights be thoroughly explained within a reasonable time after a crime is reported; and

(3) require a victim's impact statement be solicited and considered prior to sentencing a convicted offender who has caused physical or emotional harm to a victim. The provisions of this Act are to be liberally construed to accomplish these purposes.

Where necessary throughout this chapter, the Commission has revised subsection designations and capitalization to comply with standard code format.

PL 15-46 was enacted on January 29, 2007, and contained, among other enactments (1 CMC § 2204, 6 CMC §§ 4105, 4109, 4113, and 4291-4298 [Adult Diversion Program]), a short title, findings and purpose, severability, and savings clause provisions. The short title and findings and purpose provisions stated:

Section 1. Short Title. This Act may be cited as the "Probation Reform Act of 2006."

Section 2. Findings and Purpose. The Legislature finds that the purposes of probation are to provide guidance in future conduct to those persons who have been convicted of crimes, to promote their rehabilitation, and to provide restitution to their victims pursuant to Article I, § 11 of the Commonwealth Constitution. The Legislature also finds that court opinions, including *Commonwealth v. Hemley*, *Commonwealth v. Santos*, *Commonwealth v. Cristobal*, *Commonwealth v. Baulechong*, *Commonwealth v. Udei*, *Commonwealth v. Rebuénog*, and *Commonwealth v. Sablan*, have pointed out the need to amend the probation statutes, to enhance the effectiveness of the Commonwealth's probation procedures, and to ensure that the recognized goals of probation are realized.

These amendments will improve the ability of the system to fully compensate crime victims, strengthen the court's ability to ensure compliance with its orders imposing probationary terms, and will codify the rights and responsibilities of probationers in the revocation process.

In addition, the Legislature recognizes the need to supplement the tools available to the court and the Attorney General's Office to divert from the court's caseload the uncontested cases of eligible first-time of-

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enders who are likely to benefit from a community-based rehabilitation program, so the court may give priority to cases that must be tried, and to allow eligible first-time offenders to avoid getting a criminal record, thus better equipping them to compete for satisfactory employment, educational opportunities, military service and other benefits of citizenship.

These amendments are intended to address several problems which have become evident since the passage of the existing statutes.

The Act increases the period of probation the court may impose, up to three years after any period of incarceration for any misdemeanor conviction, and up to ten years after any period of incarceration for any felony conviction. This amendment is necessary because some misdemeanor crimes have either 90-day or six-month maximum sentences. These periods of time are too brief to give probationers a realistic opportunity to pay fines and restitution, which results in the Commonwealth and crime victims not being compensated in many instances. It is also desirable for some probationers to be placed on supervised probation for lengthier periods of time, in order to keep them from committing crimes, such as cases where a probationer has a very lengthy misdemeanor history. Other examples of probationers who might require lengthier periods of supervision include cases where a probationer needs mental health counseling or monitoring of psychotropic medication on an ongoing basis, and poses a threat to society only when he stops taking such medication or stops seeing his counselor; repeat sex offenders; and those whose criminal offenses are related to chronic alcohol or substance-abuse problems.

The Act also provides for tolling the period of probation upon the filing of a petition to revoke probation or suspended imposition of sentence. Currently, if someone is on probation for six months, and the Commonwealth receives notice from the probation officer that he has failed to pay his restitution after five months, the Attorney General must notify the court, serve him with notice of his violation, secure his attendance in court, adjudicate his violation and revoke his probation, all before his probation expires. If the probationer simply avoids service of the summons, or even fails to appear in court after having been summoned, the petition is dismissed when the probation is expired, no matter what the violation, or what efforts the probation office and attorney general have taken to bring the violation before the court. This gives the probationer who intends to avoid his obligations an unfair advantage, and makes the system appear ineffective. Tolling of the probationary period will resolve this problem.

This Act also codifies some of the rights, procedures and proof burdens already applicable to probation revocation, and streamlines the documentation to be filed to commence such proceedings. For example, currently, if the Attorney General receives an affidavit from the Office of Adult Probation indicating a probationer has failed to pay his fine, the Attorney General must prepare and file numerous separate documents, including: a Motion to Revoke Probation; a Declaration in Support of the Motion to Revoke Probation; a Notice of Hearing; a Notice of Rights Associated with Revocation; and a Notice of Intent to Revoke Probation.

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The sheer number of documents necessary to commence such revocation proceedings makes it extremely burdensome to ensure that all probationers are held to the same standards of compliance, and many have “fallen through the cracks” in the past.

The Act also specifies some of the terms and conditions that can be imposed as conditions of probation, and provides special conditions of probation for those convicted of crimes involving domestic violence, and crimes related to drug and alcohol abuse.

The Act defines “restitution” and provides for procedures to determine the amount of a restitution order, and for enforcement of those orders. The term “victim” is also defined more expansively, to provide guidance to the courts in determining who a victim is for purposes of a restitution order. The Act also provides that restitution orders are enforceable as civil judgments, and allows victims to pursue payment of restitution civilly, even after the probationer’s probation has expired.

Finally, the Act establishes an Adult Diversion Program, to allow the Attorney General to divert first-time offenders who do not wish to contest their guilt to the Office of Adult Probation. If the first-time offender agrees to make restitution, and to be supervised by the Office of Adult Probation, he or she may avoid a criminal conviction.