

THIRD SPECIAL SESSION, 1997

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**AN ACT**

To establish an Office of Victims' Rights within the Criminal Justice Planning Agency; to require informing victims of crime of their rights; to require victims' impact statements be incorporated in every felony pre-sentence report; and for other purposes.

**BE IT ENACTED BY THE TENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:**

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:

(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.

Section 3. Definitions. As used in this Act, 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 or emotional harm as a result of the commission of a crime; or in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

- (i) a spouse;
- (ii) a legal guardian;
- (iii) a parent;
- (iv) a child;
- (v) a sibling;
- (vi) another family member; or
- (vii) another person designated by the court.

(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 Section 7 to perform the functions of a responsible official under that section.

Section 4. Establishment of Office of Victims' Rights. An Office of Victims' Rights is hereby established within the Criminal Justice Planning Agency. The Office of Victims' Rights shall be headed by a Victims' Rights Officer. The Victims' Rights Officer shall be designated by and report to the Executive Director of the Criminal Justice Planning Agency. The Victims' Rights Officer may not hold any other position within the Commonwealth government, and shall not engage in any employment other than that of serving as the Victims' Rights Officer. The Victims' Rights Officer shall have the necessary education, training, and experience in criminal procedure, victims' rights and compensation and counseling to be an advocate for the victim.

Section 5. Duties and Responsibilities. The duties and responsibilities of the Victims' Rights Office shall include, but not be limited to:

- (a) Preparation and dissemination of the Victims' Bill of Rights as enumerated in this Act to all appropriate agencies;
- (b) Assist victims in securing full benefit of said rights;
- (c) Establish a victims' transportation program to ensure a victim's access to all court appearances and assistance programs;

(d) Coordinate the flow of information between the Criminal Division of the Attorney General's Office; the Department of Public Safety (DPS); the Public Defender's Office; the Department of Youth Services (DYS); and any and all victim support agencies and organizations such as Karidat which provide services to victims of crime;

(e) Oversee implementation of this Act;

(f) Ensure that the rights and needs of crime victims are properly publicized and addressed;

(g) Identify the victims of crime and inform them of the provisions of this Act;

(h) Serve as a clearinghouse for information relating to the problems encountered by the victims of crime;

(i) Enlist the assistance of public and voluntary health, education, welfare, and rehabilitative agencies or groups in a concerted effort to aid persons who are victims of crime;

(j) Act as an advocate for the victims of crime to obtain aid and services from public or private health, education, welfare, or rehabilitation agencies or groups to treat persons who have been victims of crime; and

(k) Provide assistance to victims, in dealing with creditors and credit reporting agencies, if a financial exigency has resulted from the crime.

(l) This section does not create a cause of action or defense in favor of a person arising out of the failure to perform any of the duties listed in subsections (a) through (k).

Section 6. Victims Bill of Rights.

(a) Best efforts to accord rights. Officers and Employees of the Office of the Attorney General and other departments and agencies of the Commonwealth of the Northern Mariana Islands engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b).

(b) Rights of crime victims. A crime victim has the following rights:

(1) The right to be treated with fairness and with respect for the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) The right to confer with the attorney for the Government in the case.

(6) The right to restitution.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

(c) No cause of action or defense. This section does not create a cause of action or defense in favor of a person arising out of the failure to accord to a victim the rights enumerated in subsection (b).

Section 7. Services to victims.

(a) Designation of responsible officials. The head of each department and agency of the Commonwealth of the Northern Mariana Islands engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) Identification of victims. At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall:

(1) identify the victim or victims of crime;

(2) inform the victims of their right to receive, on request, the services described in subsection (c); and

(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) Description of services.

(1) A responsible official shall:

(A) inform a victim of the place where the victim may receive emergency medical and social services;

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and the manner in which such relief may be obtained;

(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and

(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of:

(A) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;

(B) the arrest of a suspected offender;

(C) the filing of charges against a suspected offender;

(D) the scheduling of each court proceeding that the victim is either required to attend or, under Section 6 (b) (4), is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for parole.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and the defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of:

(A) the scheduling of a parole hearing for the offender;

(B) the escape, work release, furlough, or any other form of release from custody of the offender, the notice required under this subsection is in addition to the notice requirements contained in 6 CMC § 4118; and

(C) the death of the offender, if the defendant dies while in custody.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim which an investigating officer determines was necessary or useful for evidentiary purposes. The Attorney General shall provide for the payment of the cost of up to 2 anonymous and confidential tests of the victim for sexually transmitted

diseases, including HIV, gonorrhea, herpes, chlamydia, and syphilis, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault. A victim may waive anonymity and confidentiality of any tests paid for under this section.

(8) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

(d) No cause of action or defense. This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

Section 8. Appeal Information. The Attorney General's Office shall inform the Victims' Rights Office if the defendant seeks appellate review of a conviction or sentence, the status of the case on appeal, and the decision of the appellate court upon disposition.

Section 9. Submission of Victim Impact Statement to the Court.

(a) Prior to imposition of sentence in a felony case, the Office of Victim's Rights shall prepare a written victim impact statement which shall be appended to the presentence report on the defendant prepared by the probation department. The statement shall include applicable information obtained during consultation with the victim. If the victim cannot be located or declines to submit information for the preparation of the statement, the probation department shall include a notation to that effect in the statement. If

there are multiple victims and preparation of individual victim impact statements is not feasible, the probation department shall submit one or more representative statements.

(b) Prior to imposition of sentence in both felony and misdemeanor cases, the victim may submit a victim impact statement in one or both of the following ways:

(1) By presenting an oral victim impact statement at the sentencing hearing. However, where there are multiple victims, the court may limit the number of oral victim impact statements.

(2) By submitting a written statement to the probation department, which shall append such statement to the presentence report of the defendant.

Section 10. Access to Written Victim Impact Statements. The Court shall make available copies of the statement to the defendant, defendant's counsel, and the Attorney General's Office. These parties shall return all copies of the statement to the court immediately following the imposition of sentence upon the defendant.

Section 11. Consideration of the Victim Impact Statement. Any victim impact statement submitted to the court under Section 9 (a) of this Act shall be among the factors considered by the court in determining the sentence to be imposed upon the defendant.

Section 12. Limitation. This statute shall not be construed to require a victim to submit a victim impact statement or to cooperate in the preparation of a victim impact statement.

Section 13. Victim's Right to Privacy.

(a) A victim has the right not to testify at any court proceeding regarding the victim's home or employment address, home or employment telephone number, place of employment, or personal assets or other personal information unless the court finds it necessary to that proceeding.

(b) Any document which reveals the identity, home or employment telephone number, home or employment address, or personal assets of the victim of a crime and identifies that person as the victim of a crime, which document is received by any agency that regularly receives information from or concerning the victims of crime, is not subject to public records disclosure, under the provisions of 1 CMC, Division 9. Commonwealth courts may establish appropriate procedures and rules, and issue orders, that will protect the information specified in this subsection from disclosure.

Section 14. Limitations on Employers. A victim may not be discharged or disciplined by the victim's employer for honoring a subpoena to testify or for necessary participation in the preparation of any criminal proceeding.

Section 15. Severability. If any section of this Act or any regulation issued under the authority of this Act should be declared invalid or unenforceable by a court of competent jurisdiction, the judicial determination shall not affect the validity of the Act or regulations as a whole, or any part thereof, other than the particular part declared invalid or unenforceable.

Section 16. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

**CERTIFIED BY:**

**ATTESTED BY:**

/s/ Jesus R. Sablan  
**JESUS R. SABLAN**  
PRESIDENT OF THE SENATE

/s/ Henry DLG. San Nicolas  
**HENRY DLG. SAN NICOLAS**  
SENATE LEGISLATIVE SECRETARY

Approved this 6<sup>th</sup> day of January, 1998.

/s/ Froilan C. Tenorio  
FROILAN C. TENORIO  
GOVERNOR  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS