

# **Victims of Crime Reform Bill**

Government Bill

As reported from the Justice and Electoral  
Committee

## **Commentary**

### **Recommendation**

The Justice and Electoral Committee has examined the Victims of Crime Reform Bill and recommends that it be passed with the amendments shown.

### **Introduction**

The Victims of Crime Reform Bill is an omnibus bill, which proposes to amend the Victims' Rights Act 2002; the Children, Young Persons, and Their Families Act 1989; the Parole Act 2002; and the Sentencing Act 2002, to implement the Government's reform package for victims of crime. The objectives are to

- strengthen existing legislation to provide better for victims of crime
- broaden the rights of victims of serious offences
- provide more opportunities for victims to be involved in criminal justice processes
- ensure victims are better informed of their rights

- increase responsible government agencies' accountability and responsiveness to victims
- apply consistent victim rights in adult and youth criminal jurisdictions.

Our commentary covers the major amendments we recommend to the bill. Minor and technical amendments are not discussed.

### **Delaying commencement of the Act**

We recommend amending the commencement of the Act in clause 2 of the bill, so that it would come into force 6 months after it received the Royal assent, rather than 3 months as provided for in the bill as introduced. Our proposed amendment would allow the Police enough time to prepare to meet the requirements of the Act when it came into force.

### **Victims' Rights Act 2002**

#### **Amending definition of "address"**

We recommend amending the definition of "address" in clause 4(1) of the bill to remove reference to "text messaging". We consider that it is difficult to confirm that a text message has been sent and received, text messages are easily accessed by people other than the intended recipient, and cellphone numbers change frequently and may be re-assigned. We do not consider it desirable to specifically promote text messaging as an electronic means of sending notices.

#### **Restricting reference to victims' contact details in court**

We recommend amending clause 10 of the bill to clarify that reference to a victim's contact details in court would be restricted—not just their address, as provided in the bill as introduced.

#### **Updating victim notification system information**

We recommend amending clause 17 of the bill to require that if an agency that no longer has responsibility for the offender is notified of a victim's change of address, that agency is required to forward that information to the appropriate agency. Both agencies would then be required to inform the victim that his or her new address informa-

tion has been forwarded. Similarly, if an agency that no longer has responsibility for the offender receives a withdrawal of request notification, that agency must forward that information to the appropriate agency, but is not required to notify the victim. We consider it reasonable to expect agencies to follow this procedure.

### **Improving notification system for victims of crimes where the person or offender is detained in a hospital or facility**

In clause 21 of the bill, we recommend amending section 37(2) to specify that a victim of a crime committed by a person or offender who is compulsorily detained in a hospital or facility must be given two notifications about a person's leave: their first unescorted leave of absence outside of the grounds of the hospital or facility, and their first unescorted overnight leave of absence. We believe that current leave notification is inadequate for victims of crimes committed by perpetrators detained in facilities other than prisons. Our proposed amendments would mean that these victims would be informed when the perpetrator was reaching a stage in their treatment involving a transition back into life in the community.

## **Children, Young Persons, and Their Families Act 1989**

### **Enabling better victim support at Youth Court hearings**

We recommend amending clause 38 of the bill to allow victims and their representatives to bring "1 or more support persons (subject to any limitation on numbers imposed by the Judge)" to Youth Court hearings. As introduced, the bill would require the support persons to seek permission from the judge before attending the hearing. We think that this would introduce an unnecessary barrier to victims receiving the support that they deserve, and would place an administrative burden on Youth Court Judges. Our proposed amendment to new section 329(1)(jb) of the Act would allow victims to bring support people without seeking prior permission, while allowing the judge to restrict numbers if necessary in a specific case.

**Improving notification system for victims of offences committed by a child or young person**

We recommend inserting new clauses 38A and 38B into the bill as introduced. New clause 38A would provide that victims of offences committed by a child or young person would be notified when the child or young person absconded from a youth justice residence. New clause 38B would provide that victims of offences committed by a child or young person would be notified when the child or young person dies in a youth justice residence. We think that the bill as introduced does not provide adequate notification for victims of offenders detained in a youth justice residence.

**Amending the definition of “victim”**

We recommend amending clause 39 of the bill, to modify the definition of “victim” in Schedule 1 of the Act, so that when applying sections 7 and 8 of the Victims’ Rights Act 2002 to youth justice proceedings, “victim” includes “a person who, through or by means of an offence committed by a child or young person, suffers any form of emotional harm”. The purpose of this amendment is to align the definition of victim in the Children, Young Persons, and Their Families Act with that in the Victims’ Rights Act.

**Parole Act 2002****Restoring rights and entitlements**

We recommend amending Part 3 of the bill to restore rights and entitlements that were inadvertently removed by the Parole Amendment Act 2007. The provisions that would be reinstated relate to victims’ participation in the parole hearing process. Specifically

- victims would be informed about the process and how they may participate in it
- victims would be informed of their right to be interviewed if a hearing is to be unattended
- anyone who received notice that a hearing is to be unattended would have the right to request that the decision be reviewed
- victims and offenders would have the right to attend an interview before an unattended hearing.

The amendments would restore these rights and entitlements to the Act, in line with the original intent.

## **Sentencing Act 2002**

### **Improving restorative justice process**

We recommend amending clause 44 of the bill, which would insert new section 24A into the Act. As introduced, new section 24A requires the court to adjourn proceedings to allow an inquiry to determine whether restorative justice is “appropriate in the circumstances of the case”. We think that it is important that consideration be given to whether a victim wishes to participate in a restorative justice process. For this reason, we propose amending the clause to explicitly include the wishes of the victims among the matters the inquiry must consider. The proposed amendment would reassure victims and support agencies that any decision to initiate restorative justice proceedings would take into account the victim’s wishes.

### **Labour Party minority view**

Since 1987, the New Zealand Parliament has dealt a number of times with the rights and interests of those who suffer as a result of criminal offending. Previous enactments—the Victims of Offences Act 1987 and the Victims’ Rights Act 2002—were Labour Government initiatives. Both adopted a broadly similar approach to this one—incremental amendments to the existing system to try to make it more responsive and more sensitive to the victims of crime and their families.

We have no doubt that the situation of victims, in law and otherwise, has greatly improved since Parliament first dealt with the issue in 1987, and we do not oppose this Act. Most of the evidence indicated that the reforms it will enact will be helpful to a greater or lesser extent. But that evidence also left us convinced that it is time to do more than just put in place further incremental change.

An aspect of the evidence that particularly moved us was the position of those who suffer the death through criminal wrongdoing of a family member. They must witness criminal processes, including trial, and often appeals, in which the reputation of their deceased family member is transformed beyond recognition as the defence seeks the

acquittal of the accused. The families' distress is exacerbated as this becomes for them simply a process of re-victimisation.

The repeal during the 49th Parliament of the partial defence of provocation went some way to remedying this situation. But it still happens. Further substantial reform to address and eliminate or minimise this practice is in our view clearly required. A reference asking how to best accomplish this should go as a matter of priority to the Law Commission.

Our adversarial criminal system is at present bipartite and recognises only the accused and the prosecution. The latter stands for the interests of society in general, including the victim. Even with modifications such as the introduction some years ago of victim impact reports prior to sentencing, and the modifications that this legislation will make, this remains the formal legal position. We are mindful of the wisdom of warnings from the Chief Justice and others that any change must not violate the due process guarantees that have been built up over centuries via statute and the common law. This is especially relevant at a time of big cuts to legal aid expenditure.

Done carefully, however, the creation of a formal statutory position of advocate for the victim need not violate the balance inherent in the adversarial system. The role should include a duty to explain the process and their legal and other rights at all of its stages to victims and their families. It should include a right to be heard when statements touching on the victim's interests and reputation are made. It should involve assistance with the preparation and presentation of Victim Impact Statements.

Some of this is done already by Victims' Support, and we applaud their work. Along with being required to service advocates for the victim, Victims' Support should be given better statutory recognition, and more secure funding.

Taken together, we think these three changes, which are not provided for by the bill, would mark a significant advance in victims' rights in New Zealand.

## **Appendix**

### **Committee process**

The Victims of Crime Reform Bill was referred to the committee on 4 October 2011. The closing date for submissions was 17 February 2012. We received and considered 34 submissions from interested groups and individuals. We heard 12 submissions.

We received advice from the Ministry of Justice.

### **Committee membership**

Tim Macindoe (Chairperson)

Dr Jackie Blue

Dr Cam Calder

Charles Chauvel

Hon Lianne Dalziel

Julie Anne Genter

Alfred Ngaro

Denis O'Rourke

Katrina Shanks

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**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted unanimously

~~text deleted unanimously~~

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*Hon Judith Collins*

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## The Parliament of New Zealand enacts as follows:

### 1 Title

This Act is the Victims of Crime Reform Act **2011**.

**2 Commencement**

This Act comes into force ~~3~~ 6 months after the date on which it receives the Royal assent.

**Part 1****Amendments to Victims' Rights Act 2002** 5**3 Principal Act amended**

This **Part** amends the Victims' Rights Act 2002.

**4 Interpretation**

- (1) Section 4 is amended by inserting the following definitions in their appropriate alphabetical order: 10

“**address**, in relation to a victim or representative, means the address to which notices may be sent by post or electronic means (including by fax ~~or~~ email, ~~or text messaging~~) and received by the victim or representative

“**domestic violence** has the meaning given in section 3 of the Domestic Violence Act 1995 15

“**representative** means a person appointed under section 40

“**Secretary** means the Secretary for Justice

“**specified offence** has the meaning given in **section 29**

“**victim of a specified offence** means a victim of an offence 20 that the Commissioner of Police determines, under **section 29A**, is a specified offence”.

- (2) Paragraph (b) of the definition of **offender** in section 4 is repealed and the following paragraph substituted:

“(b) in **section 9** (which relates to meetings requested by victims) and **sections 17AA** to 27 (which relate to victim impact statements), includes a person found guilty of, or who pleads guilty to, that crime or offence”. 25

- (3) The definition of **support person** in section 4 is amended by inserting the following paragraph after paragraph (b): 30

“(ba) a person whom the victim nominates by notice in writing as his or her support person (not being a person accused of the offence, or the offender):”.

- (4) Paragraph (b) of the definition of **victim** in section 4 is amended by adding the following subparagraphs: 35

“(iii) a person who has experienced domestic violence;  
and

“(iv) a child or young person residing with a person  
who falls within **subparagraph (iii)**; and”.

- 5 Treatment** 5  
Section 7 is amended by omitting “or other official” and substituting “probation officer, or member of the New Zealand Parole Board”.
- 6 New section 9 substituted** 10  
Section 9 is repealed and the following section substituted:
- “9 Restorative justice meetings to resolve issues relating to offence**
- “(1) This section applies if a victim requests to meet with the offender to resolve issues relating to the offence.
- “(2) A member of court staff, a Police employee, or, if appropriate, a probation officer ~~(if appropriate)~~ must, if satisfied that the necessary resources are available, refer the request to a suitable person who is available to arrange and facilitate a restorative justice meeting.” 15
- 7 Information about programmes, remedies, and services** 20  
Section 11 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) In this section,—
- “**agency** means—
- “(a) the Accident Compensation Corporation: 25
- “(b) a DHB (as defined in section 6(1) of the New Zealand Public Health and Disability Act 2000):
- “(c) the Department of Corrections:
- “(d) the Ministry of Justice:
- “(e) the Ministry of Social Development: 30
- “(f) the New Zealand Police
- “**services** includes participation in restorative justice processes.”

**8 Information about proceedings**

- (1) Section 12(1) is amended by inserting the following paragraph after paragraph (c):

“(ca) the possibility (if any) of the court making an order prohibiting the publication of identifying information about the victim, and the steps that the victim may take in relation to the making of that order.” 5

- (2) Section 12(1) is amended by repealing paragraph (e) and substituting the following paragraph:

“(e) the outcome of the prosecution of the offence (and of any proceedings on appeal), for example— 10

“(i) any plea of guilty or conviction entered, and sentence imposed or substituted; or

“(ii) any finding that an accused is unfit to stand trial; or 15

“(iii) any finding that the charge was not proved; or

“(iv) any acquittal or deemed acquittal; or

“(v) any grant of free pardon.”

- (3) Section 12(2) is amended by adding the following paragraph:

“(f) any hearing of a question of conviction or sentence referred by the Governor-General under section 406(a) of the Crimes Act 1961 and any hearing of an appeal against the determination of that question.” 20

**9 Information may be given to victim’s support person**

Section 14 is amended by adding “; or” and also by adding the following paragraph: 25

“(c) has, in writing, nominated that support person to receive it and given a current address for that support person.”

**10 Restriction on giving victim’s precise address in evidence or information provided to court** 30

- (1) Section 16 is amended by omitting the heading and substituting the following heading: **“Restriction on giving information identifying place where victim lives”**.

- (2) Section 16 is amended by repealing subsection (1) and substituting the following subsection: 35

- ~~“(1) This section applies to information that identifies, or that may lead to the identification of, the place where the victim lives (the **information**).”~~
- (1) Section 16 is amended by omitting the heading and substituting the following heading: **“Restriction on disclosing victim’s contact details in evidence or information provided to court”**. 5
- (2) Section 16 is amended by repealing subsection (1) and substituting the following subsection:
- ~~“(1) This section applies to information (the **information**) that discloses, or that may lead to the disclosure of, a victim’s contact details.”~~ 10
- (3) Section 16 is amended by adding the following subsection:
- ~~“(4) In this section, **contact details** means any 1 or more of the following:~~ 15
- ~~“(a) residential address:~~
- ~~“(b) postal address:~~
- ~~“(c) email address:~~
- ~~“(d) home telephone number:~~
- ~~“(e) business telephone number: 20~~
- ~~“(f) mobile telephone number:~~
- ~~“(g) fax number.”~~

## 11 New sections 17AA and 17AB inserted

The following sections are inserted above section 17:

- “17AA Victim impact statement defined 25**
- ~~“(1) In **sections 17AB** to 27, **victim impact statement**—~~
- ~~“(a) means information that—~~
- ~~“(i) is ascertained under **section 17** from—~~
- ~~“(A) a victim; or~~
- ~~“(B) a person who, under section 20, is treated 30 as a victim; and~~
- ~~“(ii) is to be, or has been, submitted under **section 21** to the judicial officer sentencing the offender; and~~
- ~~“(ii) is to be, or has been, submitted— 35~~



- “(a) any physical injury or emotional harm suffered by the victim through, or by means of, the offence; and  
“(b) any loss of, or damage to, property suffered by the victim through, or by means of, the offence; and  
“(c) any other effects of the offence on the victim; and 5  
“(d) any other matter consistent with the purpose of victim impact statements set out in **section 17AB**.
- “(2) If a person is a victim in terms of paragraph (a)(iii) of the definition of **victim** in section 4, then a reference in **subsection ~~(1)~~ (1A)(a) to (c)** of this section to the victim includes a reference to the child or young person concerned.” 10
- 13 Procedure before ascertaining information from victim**
- (1) Section 18(a)(i) is amended by omitting “submission to the judicial officer sentencing the offender” and substituting “a victim impact statement”. 15
- (1) Section 18(a) is amended by repealing subparagraph (i) and substituting the following subparagraph:
- “(i) that the information is being ascertained for a victim impact statement; and”.
- (2) Section 18(b) is amended by omitting “information ascertained” and substituting “victim impact statement”. 20
- 14 Form and verification of information ascertained**
- (1) Section 19(1) is amended by omitting “submitted to the judicial officer sentencing the offender” and substituting “included in the victim impact statement”. 25
- (2) Section 19 is amended by omitting “for submission to the judicial officer sentencing the offender” in each place where it appears and substituting in each case “to be included in a victim impact statement”.
- (2) Section 19(3) is amended by repealing paragraph (a) and substituting the following paragraph: 30
- “(a) that the victim gave the information knowing that it was to be included in a victim impact statement, and knowing that he or she was required to ensure that any information that he or she gave is true; and”. 35

**15 New sections 21 to 22B substituted**

Sections 21 ~~and~~ to 22 are repealed and the following sections substituted:

**“21AA Victim impact statement may be used for purpose of sentence indication**

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“(1) If requested by a court giving a sentence indication under section 61 of the Criminal Procedure Act 2011, the prosecutor must submit to a judicial officer any victim impact statement that has been prepared in relation to the offence.

“(2) A victim impact statement must be submitted under **subsection (1)** in the form it was recorded under section 19 unless the judicial officer directs otherwise.

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“(3) For the purposes of **subsection (1)**, it does not matter that the victim impact statement was prepared before this section came into force.

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**“21 Victim impact statement to be submitted to judicial officer**

“(1) A victim impact statement must be submitted by the prosecutor—

“(a) to the judicial officer sentencing the offender; and

“(b) in the form in which it was recorded under section 19 unless the judicial officer directs otherwise.

20

“(2) Despite **subsection (1)**, a victim impact statement containing information ascertained from a person treated as a victim under section 20 may only be submitted with the leave of the judicial officer.

25

**“22 Victim impact statement may be read to court**

“(1) A victim may make a request to the judicial officer sentencing the offender to have all or any part of a victim impact statement submitted under **section 21** read to the court by—

“(a) the victim; or

30

“(b) the prosecutor; or

“(c) a person nominated by the victim, not being an accused or offender in relation to—

“(i) the offence; or

“(ii) another offence arising from the same incident or series of incidents as the offence.

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- “(2) A judicial officer—
- “(a) must agree to a request made under **subsection (1)** by a victim of a specified offence unless the judicial officer considers it inappropriate to do so because of—
    - “(i) the number of requests made under **subsection (1)**: 5
    - “(ii) the age and maturity of the offender:
    - “(iii) the content of the victim impact statement being inconsistent with the purpose of victim impact statements set out in **section 17AB**: 10
    - “(iv) concern about the risk of serious disruption to the proceedings or a risk to the safety of any person:
  - “(b) may agree to a request made under **subsection (1)** by a victim of an offence of any other kind.
- “(3) The reading of all or any part of a victim impact statement to the court may be subject to any time limit that the judicial officer considers appropriate. 15
- “**22A Victim impact statement may be presented to court in some other manner**
- The judicial officer sentencing the offender may, at the request of the prosecutor, agree that all or any part of a victim impact statement submitted under **section 21** be presented to the court in any manner other than by reading it (for example, if the information ascertained from a victim is recorded on an audiotape, by playing that audiotape). 20 25
- “**22B Weight to be given to victim impact statement**
- In determining the weight to give to a victim impact statement, the judicial officer sentencing the offender to whom the statement has been submitted must have regard to the following matters: 30
- “(a) whether the statement is verified in the way stated in section 19(3) or (4); and
  - “(b) if the statement is verified, the date of the verification; and
  - “(c) any other matters that the judicial officer considers may properly be taken into account.” 35

- 16 New headings and sections 29 to 32B substituted**  
 Sections 29 to 32 and the headings above those sections are repealed and the following headings and sections substituted:
- “Sections 30 to 48 apply only to victims of specified offences”* 5
- “29 Specified offence defined**  
 In this Act, a **specified offence** is—
- “(a) an offence of a sexual nature specified in—
- “(i) Part 7 of the Crimes Act 1961, excluding the offences in sections 143 and 144; or 10
- “(ii) sections 216H to 216J of the Crimes Act 1961; or
- “(b) an offence of serious assault that does not come within **paragraph (a)**; or
- “(c) an offence that has resulted in serious injury to a person, in the death of a person, or in a person becoming incapable; or 15
- “(d) an offence of another kind, and that has led to the victim having ongoing fears, on reasonable grounds,—
- “(i) for his or her physical safety or security; or
- “(ii) for the physical safety or security of 1 or more 20 members of his or her immediate family.
- “29A Commissioner of Police to determine whether offence affecting victim is specified offence**  
 As soon as practicable after a victim comes into contact with the New Zealand Police, the Commissioner of Police must determine whether the offence that affected the victim is a specified offence. 25
- “Victim’s views about release on bail of accused or offender”*
- “30 Victim’s views about release on bail of accused or offender”** 30
- “(1) This section applies if—
- “(a) the victim is the victim of a specified offence; and
- “(b) the person accused of the offence or, as the case requires, the offender, applies to a court for release on bail. 35
- “(2) If this section applies, the prosecutor must—

- “(a) make all reasonable efforts to ~~ensure that~~ ascertain any views the victim has about the accused, or, as the case requires, the offender, being released on bail ~~are ascertained~~; and
- “(b) inform the court of any views ascertained under **paragraph (a)**. 5

*“Duties in relation to informing victims about receiving notices under sections 34 to 39*

- “**31 Police to give victims of specified offences information about right to ask for notice and to appoint representative** 10
- “(1) This section applies in respect of a victim of a specified offence.
- “(2) The Commissioner of Police must, as soon as practicable,—
- “(a) inform the victim of the matters required by **subsections (3) to (5)**; and 15
- “(b) inform a support person of the victim of the matters required by **subsection (6)**.
- “(3) The Commissioner of Police must inform the victim that the victim has the right to ask to be given any notice under sections 34 to 38 and that, if he or she asks to be given such notices, then the victim must at the same time give to the New Zealand Police his or her address in accordance with **section 32B(1)(c)(i)**. 20
- “(4) The Commissioner of Police must inform the victim that if the victim asks to be given any notice under sections 34 to 38 and gives the New Zealand Police his or her address, then the victim may also be given notice under the following provisions: 25
- “(a) section 39;
- “(b) section 20 of the Prisoners’ and Victims’ Claims Act 2005. 30
- “(5) The Commissioner of Police must inform the victim that—
- “(a) the victim may appoint a representative under section 40 to request and receive on his or her behalf any notice given under sections 34 to 39; and
- “(b) if the victim appoints a representative, the victim or his or her representative must give to the New Zealand Po- 35

lice the name and address of the representative in accordance with **section 32B(1)(c)(ii)**.

“(6) If the Commissioner of Police knows, or ought reasonably to know, that the victim is not, or may not be, capable alone of doing any of the following, the Commissioner must inform a support person of the victim that the victim may appoint a representative under section 40: 5

“(a) asking for, receiving, or understanding a notice under any of sections 34 to 39; and

“(b) appointing a representative under section 40. 10

“(7) **Subsection (6)** does not limit **subsections (3) to (5)**.

“**32 Police to give Secretary information about victims of specified offences**

As soon as practicable after determining that the offence that affected the victim is a specified offence, the Commissioner of Police must give to the Secretary the following information: 15

“(a) the name of—

“(i) the victim; and

“(ii) the victim’s representative (if any); and

“(b) the address of— 20

“(i) the victim; or

“(ii) the victim’s representative.

“**32A Secretary to give victim information about right to appoint representative and to request notices**

As soon as practicable after receiving a notice under **section 32** in respect of a victim, the Secretary must inform the victim that— 25

“(a) the victim may appoint a representative under section 40; and

“(b) the victim, or his or her representative, has the right to request to be given any notice under sections 34 to 38; and 30

“(c) the victim, or his or her representative, at the same time as exercising the right in **paragraph (b)**, must give to the New Zealand Police an address under **section 32B(1)(c)(i) or (ii)**. 35

*“Sections 34 to 38 and 47 apply only to certain victims who request notice and give address*

**“32B Application of sections 34 to 38 and 47**

- “(1) Sections 34 to 38 and **47** apply to a victim only if—
- “(a) the victim is a victim of a specified offence; and 5
  - “(b) the victim, or the victim’s representative, has requested the New Zealand Police to ensure that the victim—
    - “(i) is given notice under sections 34 to 38; and
    - “(ii) is given or supplied with notice or advice of matters or decisions or directions, and copies of orders and conditions, to be given or supplied to victims under sections 41, 43, 45, 50, and 58 (and any other relevant provisions) of the Parole Act 2002; and 10
  - “(c) at the same time as the victim, or the victim’s representative, makes a request under **paragraph (b)**, the New Zealand Police is given—
    - “(i) the victim’s address; or
    - “(ii) the name and address of the victim’s representative. 15 20
- “(2) Section 34 also applies to a victim (to whom **subsection (1)(a)** applies but not **subsection (1)(b) and (c)**), if—
- “(a) the victim’s views have been ascertained under **section 30** about the release on bail of the person accused of the offence or the offender; and 25
  - “(b) the victim, or the victim’s representative, has—
    - “(i) requested the New Zealand Police to ensure that the victim is given notice under section 34; and
    - “(ii) given to the New Zealand Police, at the same time as making a request under **paragraph (i)**,— 30
      - “(A) the victim’s address; or
      - “(B) the name and address of the victim’s representative.”

**17 New sections 33 to 33C substituted**

Sections 33 and 33A are repealed and the following sections substituted: 35

- “33 **Address of victim or victim’s representative to be forwarded in certain cases**
- “(1) If a victim or the victim’s representative has made a request under **section 32B(1)(b)** and complied with **section 32B(1)(c)**, the Commissioner of Police must forward to the persons specified in **subsection (2)** the following information: 5
- “(a) the victim’s name and address; or
- “(b) the victim’s name and the name and address of the victim’s representative. 10
- “(2) The persons referred to in **subsection (1)** are—
- “(a) the chief executive of the Department of Corrections, if the person accused of the offence or, as the case requires, the offender is or becomes liable to be detained in a prison in connection with the offence and the Commissioner has not already forwarded a copy of the address under **paragraph (b)**: 15
- “(b) the Director-General of Health, if the person accused of the offence or, as the case requires, the offender, is or becomes liable to be detained in a hospital or facility in connection with the offence, his or her liability to detention is of a kind referred to in section 37(1)(a) or (b), and the Commissioner has not already forwarded a copy of the address under **paragraph (a)**. 20
- “(3) The chief executive of the Department of Corrections must forward to the Director-General of Health the information that the chief executive of the Department of Corrections has received under **subsection (1)** if the offender, having been liable to be detained in a prison in connection with the offence, becomes liable to be detained— 25 30
- “(a) in a hospital following an application under section 45(2) of the Mental Health (Compulsory Assessment and Treatment) Act 1992, or under an arrangement under section 46 of that Act; or
- “(b) in a facility following an application under section 29(1) of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003. 35
- “(4) The Director-General of Health must forward to the chief executive of the Department of Corrections the information that

the Director-General of Health has received under **subsection (1)** if the person accused of the offence or, as the case requires, the offender, having been liable to be detained in a hospital or facility in connection with the offence, is removed to a prison under section 47(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992 or section 71 of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003. 5

“(5) An address required to be forwarded under this section must be forwarded as soon as practicable after the requirement arises. 10

“**33A Notification of change of address of victim or representative**

“(1) A victim may change his or her address given under **section 32B(1)(c)(i) or (2)(b)(ii)(A)** by notifying in writing the persons specified in **subsection (3)** of that change. 15

“(2) A victim or the victim’s representative may change the representative’s address given under **section 32B(1)(c)(ii) or (2)(b)(ii)(B)** by notifying in writing the persons specified in **subsection (3)** of that change.

“(3) The persons referred to in **subsections (1) and (2)** are any of the following persons who would be likely to give the victim or the victim’s representative a notice under any of sections 34 to 38: 20

“(a) the Commissioner of Police:

“(b) the chief executive of the Department of Corrections: 25

“(c) the Director-General of Health.

“(4) On receipt of a notification under **subsection (1)**, a person (Person A) must—

“(a) forward the notification to any other person (Person B) to whom Person A has, under **section 33**, forwarded the victim’s name and address; and 30

“(b) inform the victim that the victim’s name and change of address have been forwarded to Person B.

“(5) On receipt of a notification under **subsection (2)**, a person (Person A) must— 35

- “(a) forward the notification to any other person (**Person B**) to whom Person A has, under **section 33**, forwarded the name and address of the victim’s representative; and
- “(b) inform the victim or the victim’s representative from whom the notification was received that the name and change of address of the victim’s representative have been forwarded to Person B. 5
- “(6) Person B who has been forwarded a notification under **subsection (4)(a) or (5)(a)** must confirm to the victim or the victim’s representative, as the case may be,— 10
- “(a) receipt of the notification from Person A; and
- “(b) that any future change of address should be notified under **subsection (1) or (2)** to Person B.
- “**33B Notification of withdrawal of request to be given notice**
- “(1) A victim may withdraw his or her request to be given notice under any of sections 34 to 38 by notifying in writing each of the following persons from whom the victim or the victim’s representative would be likely to receive notice under those sections: 15
- “(a) the Commissioner of Police: 20
- “(b) the chief executive of the Department of Corrections:
- “(c) the Director-General of Health.
- “(1A) On receipt of a notification under **subsection (1)**, a person (**Person A**) must forward that notification to any other person to whom Person A has, under **section 33**, forwarded— 25
- “(a) the victim’s name and address; or
- “(b) the name and address of the victim’s representative.
- “(2) A person who receives a written notification under **subsection (1) or (1A)** ~~from a victim~~ is, from on and after the date of receipt of that notification, no longer required to give to that victim, or the victim’s representative, any notice under sections 34 to 38. 30
- “**33C Secretary must request victim’s address for notice under Prisoners’ and Victims’ Claims Act 2005**
- “(1) If the Secretary is required by section 20 of the Prisoners’ and Victims’ Claims Act 2005 to give a written notice notifying the payment of money into the victims’ claims trust bank account 35

to be held in trust for an accused or an offender, the Secretary must—

“(a) advise each of the following persons of that fact:

“(i) the Commissioner of Police:

“(ii) the chief executive of the Department of Corrections: 5

“(iii) the Director-General of Health; and

“(b) request each of those persons to supply the full name and address of any victim of the offence, or the victim’s representative, in respect of whom the person has received an address under any of **sections 32B to 33A**. 10

“(2) As soon as practicable after receiving a request under **subsection (1)(b)**, a person must—

“(a) respond to that request; and

“(b) if possible, supply that information.” 15

## 18 Notice of release on bail of accused or offender

Section 34 is amended by repealing subsection (1) and substituting the following subsections:

“(1) In the case of a victim to whom this section applies by **section 32B(1)**, the victim or his or her representative must, as soon as practicable, be given notice of the matters ~~set out~~ specified in **section (1B) subsection (1B)** by the Commissioner of Police. 20

“(1A) In the case of a victim to whom this section applies by **section 32B(2)**, the victim or his or her representative must, as soon as practicable, be given notice of the matters ~~set out~~ specified in **subsection (1B)** by— 25

“(a) the Commissioner of Police, if the application for release on bail was opposed by the prosecutor; or

“(b) the Secretary, if— 30

“(i) the application for release on bail was not opposed by the prosecutor; and

“(ii) in respect of the victim or his or her representative, the Secretary has received an address under **section 32(b)**. 35

“(1B) The matters referred to in **subsections (1) and (1A)** are—

“(a) whether the person accused of the offence or, as the case requires, the offender, has been released on bail; and

- “(b) if the person accused of the offence or, as the case requires, the offender, has been released on bail, any terms or conditions of release that—
  - “(i) relate to the safety and security of the victim, or of 1 or more members of the victim’s immediate family, or of both; or 5
  - “(ii) require the accused or offender not to associate with, or not to contact, the victim, or 1 or more members of the victim’s immediate family, or both; and 10
- “(c) if an application for release on bail has been made and the hearing of that application has been adjourned, the date to which the hearing has been adjourned.”

**19 New sections 35 and 35A substituted**

Section 35 is repealed and the following sections are substituted: 15

**“35 Notice of release or escape from, or death in, prison detention of accused or offender**

- “(1) The chief executive of the Department of Corrections must give a victim to whom this section applies— 20
  - “(a) reasonable prior notice of—
    - “(i) the offender’s impending temporary release from custody under section 62 of the Corrections Act 2004 (other than where the offender is to be accompanied throughout by 1 or more constables as a condition of the release): 25
    - “(ii) the offender’s sentence of imprisonment being cancelled and substituted with a sentence of home detention under section 80K of the Sentencing Act 2002: 30
    - “(iii) the offender’s impending release from prison detention if the offender does not have a parole eligibility date under section 20 of the Parole Act 2002 (because the offender has cumulative sentences of imprisonment of not more than 24 months): 35
  - “(b) notice, as soon as practicable, of the accused or offender’s—

- 
- “(i) escape from prison detention, unless the accused or offender sooner returns, or is returned to, the place of prison detention:
- “(ii) death in prison:
- “(c) notice, shortly beforehand, of the offender’s sentence 5  
end date for the offence, being the date that is the later of the following applicable dates:
- “(i) the date on which the offender has served the full term of the sentence imposed in respect of the offence: 10
- “(ii) the expiry date of any release conditions imposed by the court under section 93 of the Sentencing Act 2002 when sentencing the offender for the offence:
- “(iii) the expiry date of any release conditions imposed on the offender by the New Zealand Parole Board under section 18(2) of the Parole Act 2002 that apply after the offender has served the full term of the sentence imposed in respect of the offence. 15
- “(2) In this section, **prison detention**— 20
- “(a) means detention in a prison (or in a Police station or other place of confinement, in accordance with section 35 of the Corrections Act 2004); and
- “(b) includes, if a child or young person is serving a sentence of imprisonment, detention of the child or young person 25  
under that sentence in a residence of the kind referred to in section 142A(1) of the Criminal Justice Act 1985; but
- “(c) does not include—
- “(i) detention of a child or young person in Police custody, or in the custody of the chief executive, an Iwi Social Service, or a Cultural Social Service, and pending hearing, under section 238(1)(d) or (e) of the Children, Young Persons, and Their Families Act 1989; and 30
- “(ii) detention of a kind referred to in section 37(1)(a) or (b) of this Act. 35

**“35A Notice of cessation of, or absconding from, or death during, home detention of offender**

The chief executive of the Department of Corrections must give a victim to whom this section applies—

- “(a) reasonable prior notice of the offender ceasing to be subject to a sentence of home detention (including where the sentence of home detention is cancelled and substituted with another sentence under section 80F(4) of the Sentencing Act 2002); and 5
- “(b) notice, as soon as practicable, of— 10
  - “(i) every instance of the offender, being on home detention, leaving the home detention residence (other than in accordance with his or her detention conditions) unless the offender sooner returns, or is returned to, the home detention residence: 15
  - “(ii) the death, during home detention, of the offender.”

**20 Notice of convictions for breaching release or detention conditions and of decisions on recall orders 20**

(1) Section 36(1) is amended by repealing paragraph (a) and substituting the following paragraphs:

- “(a) every conviction of the offender for an offence against section 71(1) of the Parole Act 2002 of breaching, without reasonable excuse, any standard release conditions or special conditions imposed by the New Zealand Parole Board: 25
- “(ab) every conviction of the offender for an offence against section 80S(a) or 80U(1) of the Sentencing Act 2002 of breaching, without reasonable excuse,— 30
  - “(i) any standard or special detention conditions of a sentence of home detention:
  - “(ii) any standard or special post-detention conditions of a sentence of home detention:
- “(ac) every conviction of the offender for an offence against section 96(1) of the Sentencing Act 2002 of breaching, without reasonable excuse, any standard or special con- 35

ditions imposed by the court that apply on release from a term of imprisonment of 24 months or less.”.

- (2) Section 36(1)(c) is repealed.
- (3) Section 36 is amended by inserting the following subsection after subsection (1): 5
- “(1A) The New Zealand Parole Board must give a victim to whom this section applies notice, as soon as practicable, of every decision to make or to refuse to make a final recall order, under section 66 of the Parole Act 2002, recalling the offender to continue serving his or her sentence in prison.” 10
- 21 Notice of discharge, leave of absence, or escape or death of accused or offender who is compulsorily detained in hospital or facility**
- (1) Section 37(1) is amended by omitting “31” and substituting “**32B**”. 15
- (2) Section 37(2) is amended by repealing paragraph (b) and substituting the following paragraphs:
- “(b) reasonable prior notice of the first unescorted leave of absence from the hospital or facility granted to the person or offender under a leave provision; and 20
- “(ba) reasonable prior notice of the first unescorted overnight leave of absence granted to the person or offender under a leave provision; and”.
- (3) Section 37 is amended by adding the following subsections:
- “(3) To avoid doubt, in **subsection (2)(b)**,— 25
- “facility includes the land on which the facility is situated
- “hospital includes the land on which the hospital is situated.
- “(4) In this section, **leave provision** means any of the following provisions:
- “(a) section 31, 50, or 52 of the Mental Health (Compulsory Assessment and Treatment) Act 1992; 30
- “(b) section 65, 66, or 67 of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.”

**22 Notice of proposal to cancel or suspend liability for deportation**

(1) Section 39(2) is amended by repealing paragraph (b) and substituting the following paragraph:

“(b) request the specified person to provide to the chief executive the address of the victim of the offence, or of the victim’s representative.” 5

(2) Section 39 is amended by repealing subsection (3) and substituting the following subsection:

“(3) A specified person must, as soon as practicable after receiving a request under **subsection (2)(b)**, comply with that request if— 10

“(a) that address has been given or forwarded to the specified person under **section 32B to 33A**; and

“(b) the specified person has not forwarded that address under **section 33** to any other specified person.” 15

**23 Representative for notice**

Section 40 is amended by omitting “(in sections 41 to 45 called the **representative**)”.

**24 Effect of appointment of representative** 20

Section 41(a) is repealed.

**25 Ways in which notice required may be given**

(1) Section 46(1) is amended by omitting “current” in each place where it appears.

(2) Section 46 is amended by repealing subsection (2) and substituting the following subsections: 25

“(2) If, as required by section 41(b), information is to be given to the representative of a victim, it is sufficient compliance with that requirement to give the information by any of the means set out in subsection (1)(a) to (d) and all references in those paragraphs to the victim are to be read as references to the representative. 30

“(3) Nothing in subsection (1) **or (2)** prevents notice from being given by any other means.”

- 26 New section 47 substituted**  
Section 47 is repealed and the following section substituted:
- “47 Victim may participate in process for offender’s release from prison**  
A victim to whom this section applies may participate in the process for making decisions about the offender’s release from prison under sections 43(3), 43(5), and 49(4) (and any other relevant provisions) of the Parole Act 2002.” 5
- 27 Complaints**  
Section 49 is amended by adding the following subsection: 10
- “(3) Any person who receives a complaint under subsection (2)(a) must deal with the complaint promptly and fairly.”**
- 28 New section 50A inserted**  
The following section is inserted after section 50:
- “50A Information about complaints to be included in annual report** 15
- “(1) Without limiting section 43 of the Public Finance Act 1989, each agency specified in **subsection (2)** must include in its annual report for each financial year that commences after the commencement of this section—** 20
- “(a) a summary of the services provided by that agency to victims (as defined in this Act):**
- “(b) statistical information about—**
- “(i) the number and type of complaints received by that agency under section 49 of this Act; and** 25
- “(ii) the disposition of those complaints.**
- “(2) The agencies referred to in **subsection (1)** are—**
- “(a) the Crown Law Office:**
- “(b) the Department of Corrections:**
- “(c) the Department of Labour: 30**
- “(d) the Ministry of Justice:**
- “(e) the Ministry of Social Development:**
- “(f) the New Zealand Police.”**

**29 Return of property held as evidence**

Section 51 is amended by adding the following subsection as subsection (2):

- “(2) Subsection (1) does not apply to a law enforcement agency if the person advises that agency that he or she does not want the property returned.” 5

**30 New heading and sections 51A to 51E inserted**

The following heading and sections are inserted after section 51:

*“Code for victims”* 10

**“51A Interpretation**

In **sections 51B to 51E**,—

“**code** means the code for victims

“**Minister** means the Minister of Justice.

**“51B Secretary to prepare code** 15

- “(1) As soon as practicable after the commencement of this section, the Secretary must prepare a code.

- “(2) The purpose of the code is to make available to victims information that is consistent with this Act and any other Act about— 20

“(a) the rights of victims; and

“(b) the services available to victims from government agencies and other organisations; and

“(c) the duties and responsibilities of government agencies when dealing with victims. 25

- “(3) In preparing the code, the Secretary—

“(a) must consult with the government agencies that provide services to victims; and

“(b) may consult with any persons or representatives of persons as the Secretary considers appropriate. 30

**“51C Code to be approved by Minister**

A code prepared under **section 51B** does not have any effect for the purposes of this Act until—

“(a) it has been submitted to the Minister; and

“(b) the Minister, after being satisfied that appropriate consultation has been carried out under **section 51B(3)**, has approved and signed the code.

**“51D Publication of code**

“(1) As soon as practicable after the code has been approved by the Minister, the Secretary must notify the approval of the code in the *Gazette*. 5

“(2) The Secretary must—

“(a) promote awareness of the code in a variety of communications media; and 10

“(b) make copies of the code accessible to members of the public (whether electronically or otherwise).

**“51E Amendment to code**

The Secretary may at any time amend the code in the manner provided in **sections 51B to 51D**, except that consultation need not be undertaken on matters involving minor corrections or updating, or otherwise of a minor or technical nature.” 15

**31 Consequential amendment to Official Information Act 1982**

(1) This section amends the Official Information Act 1982. 20

(2) Paragraph (k) of the definition of **official information** in section 2(1) is amended by omitting “section 22” and substituting “**section 17AA**”.

**31A Schedule amended**

The Schedule is amended by adding the following item: 25

**Victims’ Rights Amendment Act 2011 (2011 No 95)**

“Repeal sections 4 to 7.”

**Part 2**  
**Amendments to Children, Young Persons,**  
**and Their Families Act 1989**

**32 Principal Act amended**

This **Part** amends the Children, Young Persons, and Their Families Act 1989. 5

**33 Interpretation**

Section 2(1) is amended by repealing the definition of **victim** and substituting the following definition:

“**victim** has the meaning given in **section 2A**”. 10

**34 New section 2A inserted**

The following section is inserted after section 2:

**“2A Meaning of victim**

“(1) In this Act, **victim** means—

“(a) a person against whom an offence is committed by a child or young person: 15

“(b) a person who, through, or by means of, an offence committed by a child or young person, suffers physical injury or loss of, or damage to, property:

“(c) a parent or guardian of a child or young person who is a victim within the meaning of **paragraph (a) or (b)**, unless that parent or guardian is— 20

“(i) ~~is a child or young person against whom a charge in respect of the offence has been proved before a Youth Court; or~~ 25

“(ii) ~~is also charged with the commission of the offence concerned:~~

“(i) the child or young person charged with the commission of the offence concerned:

“(ii) the child or young person against whom a charge in respect of the offence has been proved before a Youth Court: 30

“(d) a member of the immediate family of a person who, as a result of an offence committed by a child or young person, dies or is incapable, unless that member is— 35

- “(i) is a child or young person against whom a charge in respect of the offence has been proved before a Youth Court; or  
“(ii) is also charged with the commission of the offence concerned. 5  
“(i) the child or young person charged with the commission of the offence concerned:  
“(ii) the child or young person against whom a charge in respect of the offence has been proved before a Youth Court. 10
- “(2) If an offence is committed by a child or young person then, despite **subsection (1)**, **victim** does not include—  
“(a) any other person against whom (whether as a principal or party or accessory after the fact or otherwise)—  
“(i) that offence is proved before a Youth Court; or 15  
“(ii) an offence relating to the same incident or series of incidents as that offence is proved before a Youth Court; or  
“(b) any other person who (whether as principal or party or accessory after the fact or otherwise)— 20  
“(i) is charged with the commission of, or convicted or found guilty of, that offence; or  
“(ii) is charged with the commission of, or convicted or found guilty of, an offence relating to the same incident or series of incidents as that offence. 25
- “(3) For the purposes of the definition of **victim** in **subsection (1)**,—  
“(a) **offence** includes an alleged offence; and  
“(b) the terms **immediate family** and **incapable** have the meanings given in section 4 of the Victims’ Rights Act 2002. 30
- “(3) For the purposes of the definition of **victim** in **subsection (1)**,—  
“**immediate family** and **incapable** have the meanings given in section 4 of the Victims’ Rights Act 2002 35  
“**offence** includes an alleged offence.”

**35 Custody of child or young person pending hearing**

Section 238 is amended by repealing subsection (2) and substituting the following subsections:

- “(2) If a child or young person appears before the Youth Court charged with the commission of an offence that the Commissioner of Police determines under **section 29A** of the Victims’ Rights Act 2002 to be a specified offence, then,—
- “(a) before the court makes an order under subsection (1), the prosecutor must—
- “(i) make all reasonable efforts to ascertain the views (if any) each victim has about which of the types of order that may be made under subsection (1) is the most appropriate to be made by the court; and
- “(ii) inform the court of those views; and
- “(b) after the court has made an order under subsection (1), the Commissioner of Police must inform each victim (whether or not the victim’s views have been ascertained under **paragraph (a)**) of—
- “(i) the order made by the court; and
- “(ii) in the case of any order made under subsection (1)(b), any conditions of bail imposed by the court that—
- “(A) relate to the safety and security of the victim or 1 or more members of the victim’s immediate family, or of both; or
- “(B) require the child or young person not to associate with, or not to contact, the victim or 1 or more members of the victim’s immediate family, or both.
- “(3) Nothing in **subsection (2)** prevents the court from making an order under subsection (1), even though the court has not been informed of the views of any victim.
- “(4) The court must not refuse bail to a child or young person merely because the court considers that the child or young person is in need of care or protection (as defined in section 14).
- “(5) In this section,—
- “**immediate family** has the meaning given in section 4 of the Victims’ Rights Act 2002

“**specified offence** has the meaning given in **section 29** of the Victims’ Rights Act 2002.”

**36 Persons entitled to attend family group conference**

(1) Section 251 is amended by inserting the following subsection after subsection (1): 5

“(1A) A person referred to in subsection (1) who does not, for any reason, attend any meeting of a family group conference is not solely by reason of that non-attendance precluded from attending any subsequent meeting of that family group conference, or any meeting of the family group conference reconvened under section 270.” 10

(2) Section 251 is amended by repealing subsection (2) and substituting the following subsection:

“(2) If, under subsection (1)(f), a victim of an offence or alleged offence attends a family group conference in person or, as the case may be, by a representative, that victim or representative may be accompanied by any reasonable number of persons (being members of the victim’s or representative’s family, whanau, or family group, or any other persons) who attend the conference for the purpose only of providing support to that victim or representative.” 15 20

**37 Application of District Courts Act 1947, Summary Proceedings Act 1957, Bail Act 2000, and Criminal Disclosure Act 2008**

The heading to section 321 is amended by inserting “**Victims’ Rights Act 2002,**” after “**Bail Act 2000,**”. 25

**38 Persons entitled to be present at hearing**

(1) Section 329(1) is amended by inserting the following paragraphs after paragraph (j):

“(ja) a victim of the offence or alleged offence, or his or her representative: 30

“(jb) any † or more persons whom the Judge permits to be present as support persons for the victim of the offence or alleged offence, or the victim’s representative:

“(jb) any 1 or more support persons (subject to any limitation on numbers imposed by the Judge) for the victim of the offence, or the victim’s representative.”.

(2) Section 329 is amended by repealing subsection (2) and substituting the following subsection: 5

“(2) If, during the hearing, the Judge requests a person of the kind described in **paragraph (jb)** or (k) to leave the courtroom, that person must do so.”

### **38A Children and young persons who abscond**

Section 385 is amended by adding the following subsections: 10

“(5) **Subsection (6)** applies if a young person in respect of whom a supervision with residence order is made under section 283(n)—

“(a) leaves or is taken without authority from a residence; or

“(b) refuses or neglects to return to a residence. 15

“(6) The chief executive must make all reasonable effects to notify each victim of the offence committed by the young person that the young person has absconded from the residence.”

### **38B New section 395A**

The following section is inserted after section 395: 20

#### **“395A Victims to be notified of deaths**

“(1) This section applies if—

“(a) a child or young person dies; and

“(b) at the time of his or her death the child or young person was— 25

“(i) on remand or the subject of an order under section 283(n) (supervision with residence order); and

“(ii) residing in a residence established under section 364.

“(2) The chief executive must make all reasonable efforts to notify each victim of the offence committed by the child or young person of the death of that child or young person.” 30

### **39 Schedule 1 amended**

Schedule 1 is amended by inserting the following clause after clause 3: 35

- “3A The Victims’ Rights Act 2002, as follows:
- “~~(a)~~ ~~sections 7, 8, and 10:~~
- “(a) sections 7 and 8, and, for the purposes of these sections, **victim** also includes—
- “(i) a person who, through or by means of an offence committed by a child or young person, suffers any form of emotional harm; and 5
- “(ii) a parent or guardian of a child or young person who is a victim within the meaning of **subparagraph (i)**, unless that parent or guardian is— 10
- “(A) the child or young person charged with the commission of the offence concerned;
- “(B) the child or young person against whom a charge in respect of the offence has been proved before a Youth Court; and 15
- “(iii) a person who has experienced domestic violence; and
- “(iv) a child or young person residing with a person who falls within **subparagraph (iii)**, not being the child or young person who committed the offence or alleged offence. 20
- “(ab) section 10:
- “(b) section 11 (except the definition of **services** in **subsection (2)** does not apply):
- “(c) section 12 (except **subsections (1)(ca)** and (3) do not apply) with the following modifications to **subsection (1)(e)**: 25
- “(i) the reference to a conviction is to be read as a reference to a finding of the Youth Court that a charge against a child or young person is proved; 30
- “(ii) the reference to a sentence is to be read as a reference to an order made by the Youth Court under section 283 of this Act:
- “(d) section 13 (except that despite subsection (3), section 12 overrides section 438 of this Act): 35
- “(e) sections 14 to 16A:
- “(f) **sections 17AA** to 27 if the Youth Court is to make an order under section 283 of this Act (other than where the Court is to discharge an information under section

282 of this Act), so far as they are applicable and with the following modifications:

- “(i) references to an offender are to be read as references to a child or young person against whom a charge in respect of the offence is proved before a Youth Court: 5
- “(ii) references to a conviction are to be read as references to a finding of a Youth Court that a charge against a young person is proved:
- “(iii) the reference in section 17(2) to paragraph (a)(iii) of the definition of victim in section 4 is to be read as a reference to **paragraph (c)** of the definition of victim in **section 2A** of this Act: 10
- “(g) section 37 if, in addition to the requirements of subsection (1) of that section,— 15
  - “(i) the victim is the victim of a specified offence; and
  - “(ii) the victim has requested the Commissioner of Police to ensure that he or she is given notice under section 37; and
  - “(iii) the Commissioner of Police has referred that request to the Director-General of Health and provided the Director-General of Health with the victim’s address: 20
- “(h) section 38 if, in addition to the requirements of subsection (1) of that section,— 25
  - “(i) the victim is the victim of a specified offence; and
  - “(ii) the victim has requested the Commissioner of Police to ensure that he or she is given notice under section 38; and
  - “(iii) the Commissioner of Police has referred that request to the Director-General of Health and provided the Director-General of Health with the victim’s address: 30
- “(i) the provisions of Part 4, so far as they are applicable, except that the reference to offender in section 51(1) includes a child or young person against whom a charge in respect of the offence has been proved before a Youth Court.” 35

### Part 3 Amendments to Parole Act 2002

- 40 Principal Act amended**  
This **Part** amends the Parole Act 2002.
- 41 Interpretation** 5  
The definition of **victim** in section 4(1) is amended by omitting “current address, under section 31” and substituting “address, under **section 32B**”.
- 42 Information for victims**
- (1) Section 44 is amended by inserting the following paragraph after paragraph (c): 10  
“(d) an explanation of the hearing process and how the victim may participate.”
- (2) Section 44 is amended by adding the following subsection as subsection (2): 15  
“(2) The Department of Corrections must prepare and send to the victim the information specified in subsection (1) before—  
“(a) the parole hearing; and  
“(b) each subsequent parole hearing, if at the earlier parole hearing the Board does not direct that the offender be released on parole.” 20
- 42A Decision on type of hearing**  
Section 45 is amended by repealing subsection (7) and substituting the following subsection:
- “(7) Notification under subsection (5) or (6) must include,— 25  
“(a) if the hearing is to be an unattended one,—  
“(i) a summary of the reasons for the decision that the hearing will be unattended; and  
“(ii) advice on the right under section 46 to seek a review of the decision; and 30  
“(iii) advice to the offender and victim on the right under **section 47** to have an interview; and  
“(b) if the hearing is to be an attended one,—  
“(i) notice of the date of the hearing; and

“(ii) relevant information about the rights of people attending.”

**42B Review of decision on type of hearing**

(1) Section 46 is amended by repealing subsection (1) and substituting the following subsections: 5

“(1) A person who has received notice under section 45(5) that the hearing will be an unattended one and who is dissatisfied with the decision may seek a review of that decision.

“(1A) A review is sought under **subsection (1)** by writing to the Board within 10 days of the date of the notification given under section 45(5).” 10

(2) Section 46(5) is amended by omitting “offender” and substituting “person”.

**42C New section 47 substituted**

Section 47 is repealed and the following section substituted: 15

**47 Interviews before hearings**

“(1) If a hearing is to be an unattended hearing, the offender and every victim of the offender must be given the opportunity to have an interview before the hearing with 1 member of the panel allocated to conduct the hearing. 20

“(2) The member conducting the interview may conduct the interview at whatever place and in whatever manner he or she considers appropriate, subject to this section.

“(3) In relation to an interview with a victim,—

“(a) the victim may have a support person with him or her, and the support person may, with the consent of the victim and the permission of the member conducting the interview, speak on behalf of the victim; and 25

“(b) if there are special circumstances, and with the consent of the victim and the prior written approval of the Board, the victim may be represented at the interview by another person who must attend the interview in place of the victim; and 30

“(c) the interview may not take place at a prison, unless the victim (or his or her representative) consents. 35

“(4) At an interview with an offender, the offender may have a support person with him or her, and the support person may, with the consent of the offender and the permission of the member conducting the interview, speak in support of the offender.”

## Part 4

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### Amendments to Sentencing Act 2002

#### 43 Principal Act amended

This **Part** amends the Sentencing Act 2002.

#### 44 New section 24A inserted

The following section is inserted before section 25:

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#### “24A Adjournment for restorative justice process in certain cases

“(1) This section applies if—

“(a) an offender appears before a District Court at any time before sentencing; and

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“(b) the offender has pleaded guilty to the offence; and

“(c) there are 1 or more victims of the offence; and

“(d) no restorative justice process has previously occurred in relation to the offending; and

“(e) the Registrar has informed the court that an appropriate restorative justice process can be accessed.

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“(2) The court must adjourn the proceedings to—

“(a) enable inquiries to be made by a suitable person to determine whether a restorative justice process is appropriate given the wishes of the victims and in the circumstances of the case; and

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“(b) enable a restorative justice process to occur if the inquiries made under **paragraph (a)** reveal that a restorative justice process is appropriate in the circumstances of the case.”

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#### 45 Power of adjournment for inquiries as to suitable punishment

(1) Section 25(1)(b) is amended by omitting “occur” and substituting “occur, or to be completed”.

- (2) Section 25(2) is amended by omitting “section 10(4)” and substituting “section 10(4) or **24A**”.

**46 Sentence of reparation**

Section 32 is amended by repealing subsection (5) and substituting the following subsection: 5

- “(5) Despite subsections (1) and (3), the court must not order the making of reparation in respect of any consequential loss or damage described in subsection (1)(c) for which compensation has been, or is to be, paid under the Accident Compensation Act 2001.” 10

**47 Court may order reparation report**

Section 33(1)(c) is amended by repealing subparagraph (ii) and substituting the following subparagraph:

- “(ii) the amount or extent of compensation paid or payable under the Accident Compensation Act 2001 to the person who suffered the loss or damage in respect of that loss or damage:” 15

**48 Discharge without conviction**

Section 106 is amended by repealing subsection (5) and substituting the following subsection: 20

- “(5) Despite subsection (3)(b), the court must not order the payment of compensation in respect of any consequential loss or damage described in subsection (3)(b)(iii) for which compensation has been, or is to be, paid under the Accident Compensation Act 2001.” 25

**49 Conviction and discharge**

Section 108 is amended by repealing subsection (4) and substituting the following subsection:

- “(4) Despite subsection (2)(b), the court must not order the payment of compensation in respect of any consequential loss or damage described in subsection (2)(b)(iii) for which compensation has been, or is to be, paid under the Accident Compensation Act 2001.” 30

**50 Order to come up for sentence if called upon**

Section 110 is amended by repealing subsection (5) and substituting the following subsection:

“(5) Despite subsection (3)(b), the court must not order the payment of compensation in respect of any consequential loss or damage described in subsection (3)(b)(iii) for which compensation has been, or is to be, paid under the Accident Compensation Act 2001.” 5

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**Legislative history**

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