



Children, Young Persons, and Their Families Amendment Act 2014

Public Act 2014 No 36
Date of assent 6 June 2014
Commencement see section 2

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Children, Young Persons, and Their Families Amendment Act 2014.

2 Commencement

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

3 Principal Act amended

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

4 Interpretation

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

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

5 New section 2B inserted

The following section is inserted after section 2A:

“2B Meaning of victim

“(1) In this Act, **victim** means—

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

“(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—

“(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:

- “(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—
 - “(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.
- “(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
 - “(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)—
 - “(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.
- “(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
 - “**offence** includes an alleged offence.”

6 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.”

7 Persons entitled to attend family group conference

- (1) Section 251 is amended by inserting the following subsection after subsection (1):
 - “(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.”

- (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.”

8 Application of Acts relating to bail, criminal disclosure, criminal procedure, and District Courts

The heading to section 321 is amended by inserting “**victims’ rights,**” after “**criminal procedure,**”.

9 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:

“(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:

“(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.”

10 Children and young persons who abscond

Section 385 is amended by adding the following subsections:

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

11 New section 395A inserted

The following section is inserted after section 395:

“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—
 - “(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.”

12 Schedule 1 amended

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

- “3A The Victims’ Rights Act 2002, as follows:
- “(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
 - “(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—
 - “(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
 - “(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:
- “(b) section 10:
 - “(c) section 11 (except the definition of **services** in subsection (2) does not apply):
 - “(d) section 12 (except subsections (1)(ca) and (3) do not apply) with the following modifications to subsection (1)(e):
 - “(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:
 - “(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:
 - “(e) section 13 (except that despite subsection (3), section 12 overrides section 438 of this Act):
 - “(f) sections 14 to 16A:
 - “(g) 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:
 - “(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 2B of this Act:

- “(h) section 37 if, in addition to the requirements of subsection (1) of that section,—
 - “(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:
 - “(i) section 38 if, in addition to the requirements of subsection (1) of that section,—
 - “(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:
 - “(j) 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.”
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Legislative history

16 April 2014	Divided from Victims of Crime Reform Bill (Bill 319–2) as Bill 319–3B
27 May 2014	Third reading
6 June 2014	Royal assent

This Act is administered by the Ministry of Social Development.
