

EKITI STATE VICTIMS' OF CRIME LAW, 2021

NO. 11 OF 2021

EKITI STATE OF NIGERIA

**A LAW TO RECOGNISE THE PRINCIPLES THAT GOVERN THE
RESPONSE TO PERSONS ADVERSELY AFFECTED BY CRIMES AND FOR
OTHER MATTERS CONNECTED THEREWITH.**

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Commencement []

ENACTED BY THE EKITI STATE HOUSE OF ASSEMBLY as follows:

PART 1

PRELIMINARY.

Purposes.

1. The purposes of this Law are –
 - (a) to recognise the principles that govern the response to persons adversely affected by crime by investigatory agencies, prosecuting agencies and victims' services agencies; and
 - (b) to establish requirements for the monitoring and review of the principles set out in this Law.

Objects.

2. (1) The objects of this Law are –
 - (a) to recognise the impact of crime on the victims of that crime, including the impact on members of victims' families, witnesses to the crime and in some cases, the broader community;
 - (b) to recognise that all persons adversely affected by crime, regardless of whether they report the offence, should be treated with respect by all investigatory agencies, prosecuting agencies and victims' services agencies and should be offered information to enable them to access appropriate services to help with the recovery process; and
 - (c) to help reduce the likelihood of secondary victimisation by the criminal justice system.

- (2) The objects referred to in sub-section (1) are based on the statement of Rights for victims of Crime in Ekiti State as contained in the Ekiti State Victims' Charter.

Nomination of Representatives.

3. (1) A victim may nominate a person to be his or her representative for the purposes of this Law, and if a representative is nominated, the representative is to be provided with information that, in accordance with the Charter principles, is required to be provided to the victim.
- (2) If a person has died or suffered injury as a direct result of a criminal offence committed against the person and the person has more than one family member, the family members of the person may nominate one or more family members to be the representative of the family for the purposes of this Law.
- (3) If a person is a minor or of unsound mind or an aged person incapable of making rational decision, the family members of the person may nominate one or more of the family members to be the representative of the victim.

PART 2

CHARTER PRINCIPLES GOVERNING RESPONSE TO VICTIMS.

Treatment of Persons Adversely Affected by Crime.

4. (1) All persons adversely affected by crime are to be treated with courtesy, respect and dignity by investigatory agencies, prosecuting agencies and victims' services agencies.
- (2) Investigatory agencies, prosecuting agencies and victims' services agencies are to take into account, and be responsive to the particular needs of persons adversely affected by crime, particularly needs relating to differences such as-
 - (a) race or indigenous background;
 - (b) sex or gender identity;
 - (c) cultural or linguistic diversity;
 - (d) disability;
 - (e) religion;
 - (f) age.

Information to be Given to Persons Adversely Affected by Crime.

5. Investigatory agencies, prosecuting agencies and victims' services agencies –
- (a) are to provide clear, timely and consistent information about relevant support services, possible entitlements and legal assistance available to persons adversely affected by crime; and
 - (b) if appropriate, are to refer persons adversely affected by crime to relevant support services and entities that may provide access to entitlements and legal assistance.

Information to be Given to Victim about Investigation.

6. (1) An investigatory agency is to inform a victim, at reasonable intervals, about the progress of an investigation into a criminal offence unless –
- (a) the disclosure may jeopardise any investigation of that offence or any other offence; or
 - (b) the victim requests not to be provided with that information.
- (2) If the disclosure of information under subsection (1) may jeopardise any investigation, an investigatory agency is to inform the victim about the progress of the investigation of the criminal offence relevant to the victim, to the extent possible without jeopardising any investigation.
- (3) If the disclosure of information under subsection (1) would jeopardise an investigation, an investigatory agency is to inform the victim that no information can be provided at that stage due to the ongoing nature of the investigation.

Information regarding Prosecution.

7. The prosecuting agency is to give a victim, as soon as reasonably practicable, the following information –
- (a) the charges filed against the person accused of the criminal offence;
 - (b) if no charge is filed against any person, the reason why no charge was filed;
 - (c) if charges are filed, any decision –
 - (i) to substantially modify those charges; or
 - (ii) not to proceed with some or all of those charges; or
 - (iii) to accept a plea of guilty to a lesser charge;

- (d) details about how to find out the date, time and place of the hearing of the charges against the accused person;
- (e) the outcome of the criminal proceeding against the accused person, including any sentence imposed;
- (f) if an appeal is instituted, the fact of the appeal, the grounds of the appeal and the result of the appeal.

Applications for Bail.

8. (1) A prosecuting agency, on request by a victim, is to ensure that the victim is informed of –
- (a) the outcome of any application for bail by the person accused of the criminal offence; and
 - (b) if bail is granted, any special conditions imposed on the accused person by the court that are intended to protect the victim or family members of the victim.
- (2) In having regard to the safety or welfare of members of the public, the safety or welfare of the victim or family members of the victim and the attitude of a victim towards the granting of bail may be taken into account by a court in determining whether to grant bail to a person accused of a criminal offence.

Information about Court Process.

9. (1) A prosecuting agency is to ensure that a victim is informed about the court process and the victim's entitlement to attend any relevant court proceedings, unless the court otherwise orders.
- (2) If a victim is to appear as a witness for the prosecution, the prosecuting agency is to ensure that a victim is informed about the trial process and the victim's role as a witness for the prosecution.

Contact between Victim and Accused in Court Building to be Minimised.

10. So far as is reasonably practicable, a prosecuting agency and the courts should, during the course of a court proceeding and within a court building –
- (a) minimise a victim's exposure to unnecessary contact with the person accused of the criminal offence, defence witnesses, family members and supporters of the accused person; and

- (b) protect a victim from intimidation by the accused person, defence witnesses, family members and supporters of the accused person.

Victim Impact Statements.

- 11. (1) A victim of a criminal offence may make a victim impact statement to the court sentencing the person found guilty of the offence, and unless the court orders otherwise, that statement may be considered by the court in determining the sentence of the offender.
- (2) If a victim expresses a wish to make a victim impact statement, a prosecuting agency should refer the victim to an appropriate victims' services agency for assistance in preparing the victim impact statement.

Victims' Privacy.

- 12. A victim's personal information, including his or her address and telephone number, is not to be disclosed by any person except in respect of the collection, holding, management, use, disclosure or transfer of personal information by a court, tribunal, judge, magistrate or registry staff in relation to their judicial or quasi-judicial functions.

Storage and return of Property held by the State.

- 13. If property of a victim is in the possession of an investigatory agency or a prosecuting agency for the purpose of the investigation or prosecution of a criminal offence –
 - (a) the agency is to handle and store the property in a lawful, respectful and secure manner; and
 - (b) if possible and in consultation with the victim, the property is to be returned to the victim as soon as reasonably practicable.

Compensation and Financial Assistance for Victims.

- 14. A victim may apply to a court for an order that the person convicted of or found guilty of the criminal offence that gave rise to the injury suffered by the victim pay compensation to the victim.

Information about Offender.

- 15. (1) A victim of a criminal act of violence may apply to be included on the victims register under this Law.

- (2) The Attorney-General may give to a person included on the victims register certain information concerning the offender such as the length of sentence, the likely date of release.
- (3) If the Advisory Council of Prerogative of Mercy is considering ordering the release of an imprisoned offender who has committed a criminal act of violence –
 - (a) a person included on the victims' register may make a submission to the Advisory Council about the effect of the offender's potential release on the victim; and
 - (b) the Advisory Council is to consider any submission received.
- (4) A person included on the victims' register may make a submission to the Advisory Council of Prerogative of Mercy for consideration in determining any instruction or direction it may give to an offender.

PART 3 GENERAL

Implementation of Charter principles.

16. (1) If an investigatory agency, a prosecuting agency or a victims' services agency is aware, or should reasonably be aware, that a person is a victim, the agency must have regard to the Charter principles when dealing with the person.
- (2) A person or body responsible for the development of criminal law policy, the development of victims' services policy, the administration of criminal justice or the administration of victims' services must, where relevant, have regard to the Charter principles.

Information regarding Complaints Process.

17. If a person adversely affected by crime informs an investigatory agency, a prosecuting agency or a victims' services agency that he or she believes that the agency has not upheld the Charter principles, the agency should inform the person about the processes available for making a complaint.

Monitoring Operation of the Law.

18. To ensure that the objectives of this Law are met, the Attorney-General shall–
 - (a) develop policies and plans to promote the Charter principles;

- (b) monitor, evaluate and review the operation of this Law and its benefits for victims;
- (c) ensure that appropriate processes are established for complaints to be made by persons adversely affected by crime if the Charter principles are not upheld;
- (d) do anything else he considers appropriate for the purposes of this Law.

Report of Activities.

19. The Attorney-General must each year cause to be included in the report of activities of the Ministry of Justice the following information –
- (a) the steps taken to promote the Charter principles;
 - (b) a report on the operation of this Law.

Legal Rights not affected.

20. (1) This Law does not intend –
- (a) to create in any person any legal right or give rise to any civil cause of action; or
 - (b) to affect in any way the interpretation of any law in force in the State; or
 - (c) to affect the validity, or provide grounds for review, of any judicial or administrative act or omission.
- (2) Subsection (1) does not prevent a contravention of this Law from being the subject of disciplinary proceedings against a relevant official.

Regulations.

21. The Attorney-General may make regulations for or with respect to any matter or thing required or permitted by this Law to be prescribed to give effect to this Law.

Interpretations.

22. (1) In this Law –
- “**Attorney-General**” means the Attorney-General and Commissioner for Justice of Ekiti State;

"Charter principles" means the principles set out in Part 2 of this Law;

"Criminal offence" means an offence, or a series of related offences, committed at any time, whether or not a person has been accused or convicted of that offence, and in relation to a victim, is the offence that gave rise to the injury suffered by the victim;

"family member" in relation to a person, means –

- (a) the spouse or partner of that person; or
- (b) a person who has or has had an intimate personal relationship with that person; or
- (c) a person who is or has been a relative of that person; or
- (d) a child who normally or regularly resides with that person; or
- (e) a child of whom that person is a guardian; or
- (f) another person who is or has been ordinarily a member of the household of that person;

"injury" means –

- (a) actual physical bodily injury; or
- (b) mental illness or disorder or an exacerbation of a mental illness or disorder, whether or not flowing from nervous shock; or
- (c) pregnancy; or
- (d) grief, distress or trauma or other significant adverse effect; or
- (e) loss or damage to property; or
- (f) any combination of matters referred to in paragraphs (a), (b), (c), (d) and (e);

"investigatory agency" means –

- (a) a member of the Nigeria Police Force; or
- (b) a person authorised by an enactment to investigate a criminal offence;

"Minor" means a person who is below the age of 18 years.

"person adversely affected by crime" means –

- (a) a natural person who has suffered injury as a direct result of a criminal offence, whether or not that injury was reasonably foreseeable by the offender; or

(b) a family member of a person referred to in paragraph (a);
or

(c) a witness to a criminal offence;

"prosecuting agency" means –

(a) the Director of Public Prosecutions of the Ministry of Justice; or

(b) a member of the Nigeria Police Force; or

(c) a person authorised to bring proceedings for a criminal offence against an enactment;

"State" means Ekiti State of Nigeria

"victim" means –

(a) a natural person who has suffered injury as a direct result of a criminal offence, whether or not that injury was reasonably foreseeable by the offender; or

(b) if a person has died as a direct result of a criminal offence committed against that person, a family member of that person; or

(c) if the person referred to in paragraph (a) is under 18 years of age or is incapable of managing his or her own affairs because of mental impairment, a family member of that person;

"victims' services agency" means –

(a) an entity established under an enactment that is responsible for the provision of services to persons adversely affected by crime; or

(b) a public official who is responsible for the provision of services to persons adversely affected by crime; or

(c) an entity that is publicly funded to provide services to persons adversely affected by crime.

(2) For the purposes of the definition of "family member" in subsection (1), a relative, in relation to a person, means –

(a) a father, mother, grandfather, grandmother, step-father, step-mother, father-in-law or mother-in-law of that person;
or

(b) a son, daughter, grandson, granddaughter, step-son, step-daughter, son-in-law or daughter-in-law of that person; or

(c) a brother, sister, half-brother, half-sister, brother-in-law or sister-in-law of that person; or

- (d) an uncle, aunt, uncle-in-law or aunt-in-law of that person;
or
- (e) a nephew or niece of that person; or
- (f) a cousin of that person— and includes, in the case of partners, a person who would be such a relative if the partners were married to each other.

Citation.

23. This Law may be cited as the Ekiti State Victims' Charter Law, 2021.

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