

Legislative Council

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VICTIMS OF CRIME (COMPENSATION LIMITS) AMENDMENT BILL

The Hon. A. BRESSINGTON (17:10): I move:

That this bill be now read a second time.

The physical and emotional trauma suffered by victims of crime has significant and lasting ramifications. This is not only felt by the victims but by their extended family and friends. Throughout the world, and since 1970 in South Australia, societies have recognised this trauma and have sought to compensate victims by and on behalf of their community for the harm and loss that they have endured. Payments on behalf of the public to victims of crime are not intended to replace or replicate common law payments or payments by offenders of means, but rather represent an act of grace by the public to a victim who, through no fault of their own, is impacted by the crime of another; and because the offender often has insufficient assets to compensate their victim.

As is demonstrated again and again, our community supports the victims of crime scheme and its premise that offenders, through victims of crime levies, should be held accountable for their crime. However, as I will shortly demonstrate, the goodwill of the community through the passage of time and the inaction of this parliament has ceased to be reflected in the amount of compensation paid to those victims of crime.

First, I seek to acknowledge at the outset that there is a need for significant reform of the process used to determine the amounts to be paid to victims. As has been highlighted to me by several stakeholders, including the Victim Support Service, the current one to 50 scale has resulted in what are, in some cases, insulting payments being made to victims of crime. Integral to this reform would be working to overcome some key court judgments on eligibility and entitlements which have restricted payments, for example, for mental trauma such as that suffered by a rape victim, to 12 points, which currently represents \$12,000.

Further, given the amount available in the victims of crime fund (which I will detail shortly), many in the sector advocate the scheme funding the provision of enhanced victim support services such as child psychologists for victims, or extending the scheme to cover compensation for non-violent crime that produces profound trauma, such as fraud and arson. However, given my limited resources and recognising the proper role of government, I have not attempted to address the over-arching reform of this bill and I would encourage the Attorney-General, if he has not done so, to commence that reform process.

Instead, the Victims of Crime (Compensation Limits) Amendment Bill which I introduce today seeks to achieve three objectives, each of which in its own way seeks to improve access to and equity of the victims of crime compensation scheme. The first is to raise the maximum amount payable to victims of crime from \$50,000 to \$100,000. The maximum amount payable to victims of crime has not been increased since 1990, some 21 years ago. In that time inflation alone has well and truly doubled, meaning that by today's standards \$50,000 represents less than \$25,000 in 1990. If the maximum payable had kept pace with inflation, the maximum payable would have eclipsed the \$100,000 mark that I am proposing.

Given that very few receive the maximum due to the one to 50 scale mentioned earlier—and most only a fraction of this amount—it is little wonder that the Victims of Crime

Commissioner Mr Michael O'Connell has called some payments made to victims insulting. Whilst not fully addressing the needed reforms identified earlier, doubling the maximum will, unsurprisingly, double the amount payable to victims. This would mean that the young rape victim referred to by the Hon. Dennis Hood on FIVEaa radio would receive \$20,000 rather than \$10,000. Whilst to my mind this is still insulting, it is a little less so.

The amount currently in the fund, as revealed to the Budget and Finance Committee, is in excess of \$79 million and is forecast to reach \$116 million by the end of this financial year. This is up from the \$22 million in the fund on 2 April 2008, the date the Premier gloated that the Victims of Crime Fund was available and waiting for victims of sexual abuse in state care. Of course, that was spin for political expediency, and it was not until some 18 months later that the ex gratia scheme for compensating victims of abuse in state care was formally announced, and some months after that before the guidelines were published and it was accessible to claimants.

The obvious conclusion to be drawn is that the fund, through victims of crime levies and other revenue streams, is taking in more than it is providing to victims. Whilst I stand to be corrected, it is my understanding that we are currently expending just over 50 per cent of the amount taken into the fund each year. That is total expenditure, including administration costs and ex gratia payments, as well as victims of crime payments. If this is correct, then basic maths would suggest that doubling the payments made under the scheme would not threaten the solvency of the scheme but rather simply reduce the amount by which it grows each year. If that is the case—and I am sure the government will be quick to correct me—then there is absolutely no reason not to bring the maximum payments in line with the contemporary value of money.

It goes without saying that raising the maximum payable is supported by the Victim Support Service and, from comments made in the media, the Commissioner for Victims Rights, who, to quote him from the FIVEaa radio interview, has argued for increases in the maximum with successive Liberal and Labor governments, adding, 'I believe that it should be a fund that is relative to the value of money today.'

On the commissioner's final point, having raised the maximum payable, the second objective of the bill is to ensure that the maximum continues to reflect the same value to future claimants. It does so by raising the amount in accordance with the All Groups Consumer Price Index of inflation on 1 January each year. If the bill had been in operation as of 1 January this year, in accordance with the 2010 Adelaide CPI figure of 2.5 per cent, the maximum payable would have increased by \$2,500. While this does not represent a significant increase, it ensures that the scheme remains equitable to future claimants and prevents the amount again falling into insignificance. The bill also increases other payments allowable under the act, such as payments to assist with funeral costs, in accordance with CPI.

The third objective—and that is what first instigated this bill—is to dispense with the scaled maximum payable, depending on when the offence from which the claim arises occurred. For members not familiar, when the Criminal Injuries Compensation Scheme was first introduced in 1970, I believe, the maximum payable was \$1,000—presumably a more significant sum at the time than it appears to be now. This amount was then increased to \$2,000 in 1974, to \$10,000 in 1978, \$20,000 in 1987 and, finally in 1990, the maximum payable has more than doubled to \$50,000 with, as I said earlier, no further increases since that time.

If the offence of which you were a victim occurred prior to 1990, or indeed prior to one of the other aforementioned dates, even if you were seeking compensation in 2011, presumably

following a successful prosecution, the maximum amount payable to you is the amount considered adequate by the parliament at the time of the offence. This to me is frankly absurd and offensive.

We have this week commemorated the life of former Justice of the Supreme Court, Ted Mullighan, who in his role as Commissioner for Victims of Abuse in State Care was instrumental in encouraging victims of sexual abuse to come forward and name their offenders. Many went on to provide their statements to police, who have since slowly worked through the backlog of cases the inquiry revealed. As members are no doubt aware, victims of sexual abuse whilst in state care are particularly dear to me, and I think each one who has come forward should be commended for their courage, particularly those who are asked to relive their trauma and then tell the world of their struggle in a victim impact statement.

To then tell someone—particularly a victim of child sexual abuse—that because the offence occurred prior to some arbitrary date, the maximum payable is \$1,000, \$2,000 or even \$10,000 is to belittle the trauma they have endured. Few victims proceed to prosecution with compensation in mind, a fact borne out of research. Those victims who do assist the state to punish the offender (and we know that for sexual offences in particular that percentage is worryingly low) should at least receive an amount that is relative to the time the payment is made.

Whilst I understand why the parliament of the day sought to limit exposure to the scheme by confining victims by the date of the offence, I see no reason—given the forecast surplus available in the fund—not to bring victims who are now coming forward into line with their contemporary counterparts. Do we really believe that the trauma of rape or other violent offence that occurred on 31 August 1990 is any less significant than an offence that occurred on 1 September 1990, or that an offence that occurred prior to 22 January 1970 does not deserve compensation?

By increasing the maximum payable to victims of crime, by then linking that increase to CPI, and by treating all victims as equal—regardless of when the offending occurred—I believe that the bill I introduce today brings the victims of crime scheme in line with community expectations and the compassion it has for victims.

Debate adjourned on motion of Hon. I.K. Hunter.