

House of Assembly—No 102

As laid on the table and read a first time, 4 May 2005

South Australia

**Victims of Crime (Legal Costs and Disbursements)
Amendment Bill 2005**

A BILL FOR

An Act to amend the *Victims of Crime Act 2001*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Victims of Crime (Legal Costs and Disbursements) Amendment Act 2005*.

5 **2—Commencement**

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

10 **Part 2—Amendment of *Victims of Crime Act 2001***

4—Amendment of section 25—Legal costs and disbursements

Section 25—after subsection (2) insert:

- (2a) Schedule 2 applies to the determination and recovery of disbursements in proceedings under this Act.

5—Substitution of Schedule 2

Schedule 2—delete the Schedule and substitute:

Schedule 2—Disbursements

1—Interpretation

5 In this Schedule—

allied health practitioner means a health practitioner other than a dentist or medical practitioner;

dentist means a person who is registered in this or any other State or a Territory of the Commonwealth as a dentist;

10 *hospital report*, in relation to a victim, means the record of the victim's hospitalisation, condition and treatment while in hospital, and the diagnostic, medical and surgical procedures carried out while in hospital, and includes any summary of the victim's treatment and condition made on the victim's discharge from hospital;

15 *medical practitioner* means a person who is registered in this or any other State or a Territory of the Commonwealth as a medical practitioner;

20 *medical specialist* means a medical practitioner who is registered in this or any other State or a Territory of the Commonwealth as a specialist in a particular branch of medicine;

psychiatrist means a medical specialist whose specialty is psychiatry.

2—Recovery of disbursements if application made to court

25 (1) If an application for statutory compensation is made to the court, the claimant may recover disbursements certified by the court to have been reasonably incurred in connection with the application.

(2) However—

(a) the cost of obtaining—

30 (i) a hospital report that is longer than 20 pages; or

(ii) a report from a medical specialist (other than a psychiatrist) before the end of the period for negotiation; or

(iii) a report from more than 1 expert in the same field of expertise,

35 may only be recovered if the Crown Solicitor gave prior approval or the court is satisfied that the report was necessary for the proper determination of the matter; and

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- (b) the cost of obtaining a report from an allied health practitioner may only be recovered if the Crown Solicitor gave prior approval or the court is satisfied that the report of a medical practitioner or dentist would not provide the court with the evidence necessary for the proper determination of the matter.

3—Recovery of disbursements if claim agreed without application to court

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- (1) If an application for statutory compensation is agreed between the claimant and the Crown Solicitor without an application being made to the court, the claimant may recover disbursements certified by the Crown Solicitor to have been reasonably incurred in connection with the application.

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- (2) However—

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- (a) the cost of obtaining—

(i) a hospital report that is longer than 20 pages; or

(ii) a report from a medical specialist (other than a psychiatrist) before the end of the period for negotiation; or

20 (iii) a report from more than 1 expert in the same field of expertise,

may only be recovered if the Crown Solicitor gave prior approval; and

- 25
- (b) the cost of obtaining a report from an allied health practitioner may only be recovered if the Crown Solicitor gave prior approval, having regard to—

(i) the nature of the claimant's injury; and

(ii) the qualifications and field of practice of the allied health practitioner; and

30 (iii) whether the claimant has obtained, or proposes to obtain, a report from a medical practitioner or dentist; and

(iv) whether the claimant was referred to the allied health practitioner for treatment by a medical practitioner; and

35 (v) whether a report from a medical practitioner or dentist would avoid the need for a report from the allied health practitioner; and

40 (vi) the estimated cost of the report from the allied health practitioner; and

(vii) any other matter that, in the circumstances, may compromise (or give the appearance of compromising) the independence of the allied health practitioner or undermine the reliability of the report.

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(3) The Victims of Crime Co-ordinator may, on application by a claimant who is aggrieved by a determination of the Crown Solicitor concerning the recovery of a disbursement, review that determination.

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(4) The Victims of Crime Co-ordinator may confirm or vary the Crown Solicitor's determination and the determination of the Victims of Crime Co-ordinator is not subject to further review or appeal in any court.