



**96TH GENERAL ASSEMBLY**

**State of Illinois**

**2009 and 2010**

**HOUSE JOINT RESOLUTION**

**CONSTITUTIONAL AMENDMENT**

**HC0019**

Introduced 2/18/2009, by Rep. Lou Lang

**SYNOPSIS AS INTRODUCED:**

ILCON Art. 1, Sec. 8.1

Proposes to amend the Bill of Rights Article of the Illinois Constitution relating to crime victim rights. Proposes that victims' rights apply in juvenile delinquency proceedings and post-judgment proceedings. Proposes that a crime victim has the right to: (1) have the defendant, any person acting on the defendant's behalf, and the attorney of record prevented from obtaining confidential information or records that could be used to locate or harass the victim or victim's family, that disclose confidential communications made in the course of medical or counseling treatment, or that are otherwise privileged or confidential by law; (2) be heard in person or in any other manner the victim chooses, upon request, at any proceeding involving a post-arrest release decision, plea, sentencing, post-conviction or post-adjudication release decision, or any proceeding in which a right of the victim is at issue; (3) receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law; (4) be present, upon request, at all post-judgment proceedings; and (5) have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment release decision is made. Proposes to define "crime victim". Effective upon being declared adopted.

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1 HOUSE JOINT RESOLUTION  
 2 CONSTITUTIONAL AMENDMENT

3 RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE  
 4 NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE  
 5 SENATE CONCURRING HEREIN, that there shall be submitted to the  
 6 electors of the State for adoption or rejection at the general  
 7 election next occurring at least 6 months after the adoption of  
 8 this resolution a proposition to amend Section 8.1 of Article I  
 9 of the Illinois Constitution as follows:

10 ARTICLE I  
 11 BILL OF RIGHTS

12 (ILCON Art. 1, Sec. 8.1)

13 SECTION 8.1. CRIME VICTIM'S RIGHTS.

14 (a) To preserve and protect a victim's right to justice and  
 15 due process, a crime victim ~~Crime victims, as defined by law,~~  
 16 shall have the following rights in criminal and juvenile  
 17 delinquency proceedings ~~as provided by law:~~

18 (1) The right to be treated with fairness and respect  
 19 for the victim's ~~their~~ dignity and privacy and to be free  
 20 from harassment, intimidation, and abuse throughout the  
 21 criminal or juvenile justice process.

22 (2) The right to have the defendant, any person acting  
 23 on the defendant's behalf, and the attorney of record

1 prevented from obtaining confidential information or  
2 records that could be used to locate or harass the victim  
3 or victim's family, that disclose confidential  
4 communications made in the course of medical or counseling  
5 treatment, or that are otherwise privileged or  
6 confidential by law.

7 (3) ~~(2)~~ The right to timely notification of court  
8 proceedings and any related post-judgment proceedings.

9 (4) ~~(3)~~ The right to confer communicate with the  
10 prosecution.

11 (5) ~~(4)~~ The right to be heard in person or in any other  
12 manner the victim chooses, upon request, at any proceeding  
13 involving a post-arrest release decision, plea,  
14 sentencing, post-conviction or post-adjudication release  
15 decision, or any proceeding in which a right of the victim  
16 is at issue. The right to receive, upon request, the  
17 pre-sentence report when available to the defendant,  
18 except for those portions made confidential by law ~~make a~~  
19 statement to the court at sentencing.

20 (6) ~~(5)~~ The right to be informed of ~~information about~~  
21 the conviction, the sentence, any proposal to reduce the  
22 sentence or that would result in release, the imprisonment,  
23 and the release of the accused.

24 (7) ~~(6)~~ The right to timely disposition of the case  
25 following the arrest of the accused, including related  
26 post-judgment proceedings.

1           (8) ~~(7)~~ The right to be reasonably protected from the  
2 accused throughout the criminal or juvenile justice  
3 process. The right to have the safety of the victim and the  
4 victim's family considered in denying or fixing the amount  
5 of bail and release conditions for the defendant.

6           (9) ~~(8)~~ The right to be present at the trial and all  
7 other court proceedings on the same basis as the accused,  
8 ~~unless the victim is to testify and the court determines~~  
9 ~~that the victim's testimony would be materially affected if~~  
10 ~~the victim hears other testimony at the trial.~~

11           (10) ~~(9)~~ The right to have present at all court  
12 proceedings, subject to the rules of evidence, an advocate  
13 or other support person of the victim's choice.

14           (11) ~~(10)~~ The right to restitution.

15           (12) The right to be present, upon request, at all  
16 post-judgment proceedings.

17           (13) The right to have the safety of the victim, the  
18 victim's family, and the general public considered before  
19 any parole or other post-judgment release decision is made.

20           (b) Definition. For the purposes of this Section, the term  
21 "crime victim" means a person directly and proximately harmed  
22 as a result of the commission of a criminal or juvenile  
23 offense. In the case of a crime victim who is under 18 years of  
24 age, incompetent, incapacitated, or deceased, the legal  
25 guardians of the crime victim or the representatives of the  
26 crime victim's estate, family members, or any other persons

1 appointed as suitable by the court may assume the crime  
2 victim's rights under this Section, but in no event shall the  
3 defendant be named as such guardian or representative.

4 (c) A victim, a lawful representative of the victim  
5 including the victim's lawyer, or the prosecuting attorney upon  
6 request of the victim may assert the rights enumerated in  
7 subsection (a) in any circuit or appellate court with  
8 jurisdiction over the case as a matter of right. The court  
9 shall act promptly on such a request.

10 ~~(b) The General Assembly may provide by law for the~~  
11 ~~enforcement of this Section.~~

12 (d) ~~(e)~~ The General Assembly may provide for an assessment  
13 against convicted defendants to pay for crime victims' rights.

14 (e) ~~(d)~~ Nothing in this Section or in any law enacted under  
15 this Section shall be construed as creating a basis for  
16 vacating a conviction. This Section does not create any cause  
17 of action for compensation or damages against the State, any  
18 political subdivision of the State, any officer, employee, or  
19 agent of the State or of any of its political subdivisions, or  
20 any officer or employee of the court ~~or a ground for appellate~~  
21 relief in any criminal case.

22 (Source: Amendment adopted at general election November 3,  
23 1992.)

24 SCHEDULE

25 This Constitutional Amendment takes effect upon being

1 declared adopted in accordance with Section 7 of the Illinois  
2 Constitutional Amendment Act.