



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HOUSE JOINT RESOLUTION

CONSTITUTIONAL AMENDMENT

HC0029

Introduced , 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 concerning crime victim's rights. Provides that in addition to other rights provided in the Constitutional provision, a crime victim has the right to: (1) be free from harassment, intimidation, and abuse; (2) refuse to disclose information that is privileged or confidential by law; (3) timely notification of post-trial proceedings; (4) be heard in person or in any other reasonable manner the victim chooses at any proceeding involving a post-arraignment release decision, plea, sentencing, post-conviction or post-adjudication release decision, or any proceeding in which a right of the victim is at issue; (5) receive a report prepared for sentencing, reduction in sentence, parole, early release, or clemency, when available to the accused; and (6) have the safety of the victim and the victim's family considered in denying or fixing the amount of bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction. Provides that nothing in this Constitutional provision creates any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court. 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-SEVENTH 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 ~~as provided by law:~~

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

21 (2) The right to refuse to disclose information that is
 22 privileged or confidential by law.

23 (3) ~~(2)~~ The right to timely notification of all court

1 proceedings, including related post-trial proceedings.

2 (4) ~~(3)~~ The right to confer ~~communicate~~ with the
3 prosecution.

4 (5) ~~(4)~~ The right to be heard in person or in any other
5 reasonable manner the victim chooses at any proceeding
6 involving a post-arraignment release decision, plea,
7 sentencing, post-conviction or post-adjudication release
8 decision, or any proceeding in which a right of the victim
9 is at issue ~~make a statement to the court at sentencing.~~

10 (6) The right to receive a report prepared for
11 sentencing, reduction in sentence, parole, early release,
12 or clemency, when available to the accused.

13 (7) ~~(5)~~ The right to be notified of ~~information about~~
14 the conviction, the sentence, any proposal that would
15 reduce the sentence or result in release, the imprisonment,
16 and the release of the accused.

17 (8) ~~(6)~~ The right to timely disposition of the case
18 following the arrest of the accused, including related
19 post-trial proceedings.

20 (9) ~~(7)~~ The right to be reasonably protected from the
21 accused throughout the criminal justice process.

22 (10) The right to have the safety of the victim and the
23 victim's family considered in denying or fixing the amount
24 of bail, determining whether to release the defendant, and
25 setting conditions of release after arrest and conviction.

26 (11) ~~(8)~~ The right to be present at the trial and all

1 other court proceedings, including related post-trial
2 proceedings ~~on the same basis as the accused, unless the~~
3 ~~victim is to testify and the court determines that the~~
4 ~~victim's testimony would be materially affected if the~~
5 ~~victim hears other testimony at the trial.~~

6 (12) ~~(9)~~ The right to have present at all court
7 proceedings, subject to the rules of evidence, an advocate
8 or other support person of the victim's choice.

9 (13) ~~(10)~~ The right to full and prompt restitution.

10 (b) Definition. For the purposes of this Section, the term
11 "crime victim" means a person directly and proximately harmed
12 as a result of the commission of a criminal offense. In the
13 case of a crime victim who is under 18 years of age,
14 incompetent, incapacitated, or deceased, the legal guardians
15 of the crime victim or the representatives of the crime
16 victim's estate, family members, or any other persons appointed
17 as suitable by the court may assume the crime victim's rights
18 under this Section, but in no event shall the accused be named
19 as such guardian or representative. ~~The General Assembly may~~
20 ~~provide by law for the enforcement of this Section.~~

21 (c) A victim, the victim's lawyer, or the prosecuting
22 attorney upon request of the victim may assert the rights
23 enumerated in subsection (a) in any circuit or appellate court
24 with jurisdiction over the case as a matter of right. The court
25 shall act promptly on such a request.

26 (d) ~~(e)~~ The General Assembly may provide for an assessment

1 against convicted defendants to pay for crime victims' rights.

2 (e) ~~(d)~~ Nothing in this Section or in any law enacted under
3 this Section shall be construed as creating a basis for
4 vacating a conviction ~~or a ground for appellate relief in any~~
5 ~~criminal case.~~

6 (f) Nothing in this Section creates any cause of action for
7 compensation or damages against the State, any political
8 subdivision of the State, any officer, employee, or agent of
9 the State or of any of its political subdivisions, or any
10 officer or employee of the court.

11 (Source: Amendment adopted at general election November 3,
12 1992.)

13 SCHEDULE

14 This Constitutional Amendment takes effect upon being
15 declared adopted in accordance with Section 7 of the Illinois
16 Constitutional Amendment Act.