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1 HOUSE JOINT RESOLUTION

2 WHEREAS, The 98th General Assembly of the State of Illinois
3 has submitted House Joint Resolution Constitutional Amendment
4 1, a proposition to amend the Illinois Constitution, to the
5 voters of Illinois at the November 2014 general election; and

6 WHEREAS, The Illinois Constitution Amendment Act requires
7 the General Assembly to prepare a brief explanation of the
8 proposed amendment, a brief argument in favor of the amendment,
9 a brief argument against the amendment, and the form in which
10 the amendment will appear on the ballot, and also requires the
11 information to be published and distributed to the electorate;
12 therefore, be it

13 RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE
14 NINETY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE
15 SENATE CONCURRING HEREIN, that the proposed form of Section 8.1
16 of Article I shall be published as follows:

17 "ARTICLE I
18 BILL OF RIGHTS

19 SECTION 8.1. CRIME VICTIMS' ~~VICTIM'S~~ RIGHTS.

20 (a) Crime victims, as defined by law, shall have the
21 following rights ~~as provided by law~~:

1 (1) The right to be treated with fairness and respect
2 for their dignity and privacy and to be free from
3 harassment, intimidation, and abuse throughout the
4 criminal justice process.

5 (2) The right to notice and to a hearing before a court
6 ruling on a request for access to any of the victim's
7 records, information, or communications which are
8 privileged or confidential by law.

9 (3) ~~(2)~~ The right to timely notification of all court
10 proceedings.

11 (4) ~~(3)~~ The right to communicate with the prosecution.

12 (5) ~~(4)~~ The right to be heard at any post-arraignment
13 court proceeding in which a right of the victim is at issue
14 and any court proceeding involving a post-arraignment
15 release decision, plea, or sentencing ~~make a statement to~~
16 ~~the court at sentencing.~~

17 (6) ~~(5)~~ The right to be notified of ~~information about~~
18 the conviction, the sentence, the imprisonment, and the
19 release of the accused.

20 (7) ~~(6)~~ The right to timely disposition of the case
21 following the arrest of the accused.

22 (8) ~~(7)~~ The right to be reasonably protected from the
23 accused throughout the criminal justice process.

24 (9) The right to have the safety of the victim and the
25 victim's family considered in denying or fixing the amount
26 of bail, determining whether to release the defendant, and

1 setting conditions of release after arrest and conviction.

2 (10) ~~(8)~~ The right to be present at the trial and all
3 other court proceedings on the same basis as the accused,
4 unless the victim is to testify and the court determines
5 that the victim's testimony would be materially affected if
6 the victim hears other testimony at the trial.

7 (11) ~~(9)~~ The right to have present at all court
8 proceedings, subject to the rules of evidence, an advocate
9 and ~~or~~ other support person of the victim's choice.

10 (12) ~~(10)~~ The right to restitution.

11 (b) The victim has standing to assert the rights enumerated
12 in subsection (a) in any court exercising jurisdiction over the
13 case. The court shall promptly rule on a victim's request. The
14 victim does not have party status. The accused does not have
15 standing to assert the rights of a victim. The court shall not
16 appoint an attorney for the victim under this Section. Nothing
17 in this Section shall be construed to alter the powers, duties,
18 and responsibilities of the prosecuting attorney ~~The General~~
19 ~~Assembly may provide by law for the enforcement of this~~
20 ~~Section.~~

21 (c) The General Assembly may provide for an assessment
22 against convicted defendants to pay for crime victims' rights.

23 (d) Nothing in this Section or any law enacted under this
24 Section creates a cause of action in equity or at law for
25 compensation, attorney's fees, or damages against the State, a
26 political subdivision of the State, an officer, employee, or

1 agent of the State or of any political subdivision of the
2 State, or an officer or employee of the court. ~~or in any law~~
3 enacted under

4 (e) Nothing in this Section or any law enacted under this
5 Section shall be construed as creating (1) a basis for vacating
6 a conviction or (2) a ground for any relief requested by the
7 defendant ~~appellate relief in any criminal case.~~"; and be it
8 further

9 RESOLVED, That a brief explanation of the proposed
10 amendment, a brief argument in favor of the amendment, a brief
11 argument against the amendment, and the form in which the
12 amendment will appear on the ballot shall be published and
13 distributed as follows:.

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**PROPOSED AMENDMENT
TO SECTION 8.1 TO ARTICLE I
OF THE ILLINOIS CONSTITUTION**

**That will be submitted to the voters
November 4, 2014**

This pamphlet includes

- EXPLANATION OF THE PROPOSED AMENDMENT***
- ARGUMENTS IN FAVOR OF THE AMENDMENT***
- ARGUMENTS AGAINST THE AMENDMENT***
- FORM OF BALLOT***

1 plea agreement, release of the defendant or convicted
2 individual, or sentencing.

3 3) Victims may obtain information about conviction,
4 sentencing, imprisonment or release. The amendment would
5 require prosecutors and the court to notify victims of those
6 events before they happen.

7 The amendment would also grant additional rights to crime
8 victims:

9 1) A victim would have a right to formal notice and a
10 hearing before the court rules on any request for access to
11 privileged or confidential information.

12 2) A victim would have the right to have the judge consider
13 the victim's safety and the safety of his or her family before
14 deciding whether to release a criminal defendant, setting the
15 amount of bail to be paid before release, or setting conditions
16 of release after arrest or conviction.

17 3) The victim would have the right to assert his or her
18 rights in any court with jurisdiction over the criminal case,
19 but would not have the same rights as the prosecutor or the
20 criminal defendant and the court could not appoint an attorney
21 for the victim at taxpayer expense.

22 The proposed amendment would not alter the powers, duties
23 or responsibilities of the prosecutor. Further, a criminal
24 defendant would not be able to challenge his or her conviction

1 on the basis of a failure to follow these provisions.

2 **Arguments in Favor of the Proposed Amendment**

3 Crime victims deserve stronger protections under the
4 Constitution than are currently provided. Victims should not
5 have to fear intimidation and harassment when they participate
6 in the criminal justice process. Judges must consider a
7 victim's safety when setting bail, deciding whether a criminal
8 defendant should be released during his or her trial, or
9 sentencing a convicted defendant.

10 Further, victims should also be allowed to object when a
11 defendant or a defendant's attorney attempts to obtain
12 confidential or private information, like mental health
13 records or personal journals. A judge would still be able to
14 require a victim to turn those records or communications over
15 to the court, but the amendment would allow the victim to
16 object if he or she feels that a privacy violation would
17 result.

18 A constitutional amendment is necessary because judges
19 need to be certain what rights a victim has before the court.
20 This amendment would provide that judges and prosecutors have a
21 constitutional duty to keep the victim informed of developments

1 in the case, and to allow the victim to participate when
2 appropriate.

3 **Arguments Against the Proposed Amendment**

4 The proposed amendment would disrupt the criminal justice
5 process and impede the work of prosecutors. Our criminal
6 justice system tasks prosecutors, not victims, with punishing
7 criminals and restoring justice after a crime is committed.
8 Victims and their attorneys may attempt to take over that
9 important role, second-guessing prosecutors and objecting to
10 decisions made by judges.

11 Victims already have a right to be present and informed
12 during the process, and Illinois already provides extensive
13 rights to crime victims under the Rights of Crime Victims and
14 Witnesses Act.

15 The proposed amendment threatens the rights of criminal
16 defendants, both the guilty and the innocent. Our system gives
17 criminal defendants the right to access information, documents
18 and records that could prove their innocence; however, the
19 amendment would give a victim the opportunity to prevent
20 disclosure of certain materials or documents that might prove
21 the defendant's innocence.

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FORM OF BALLOT

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Proposed Amendment to the 1970 Illinois Constitution

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Explanation of Amendment

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The proposed amendment makes changes to Section 8.1 of Article

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I of the Illinois Constitution, the Crime Victims' Bill of

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Rights. The proposed amendment would expand certain rights

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already granted to crime victims in Illinois, and give crime

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victims the ability to enforce their rights in a court of law.

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You are asked to decide whether the proposed amendment should

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become part of the Illinois Constitution.

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YES

For the proposed amendment

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of Section 8.1 of Article I

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NO

of the Illinois Constitution.

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