

IN THE SENATE

SENATE JOINT RESOLUTION NO. 101

BY STATE AFFAIRS COMMITTEE

A JOINT RESOLUTION

1 PROPOSING AN AMENDMENT TO SECTION 22, ARTICLE I, OF THE CONSTITUTION OF THE  
2 STATE OF IDAHO, RELATING TO RIGHTS OF CRIME VICTIMS; STATING THE QUES-  
3 TION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUN-  
4 CIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRE-  
5 TARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.  
6

7 Be It Resolved by the Legislature of the State of Idaho:

8 SECTION 1. That Section 22, Article I, of the Constitution of the State  
9 of Idaho be amended to read as follows:

10 SECTION 22. RIGHTS OF CRIME VICTIMS. (A) A crime victim, ~~as~~  
11 ~~defined by statute,~~ has the following rights:

12 (1) To be treated with fairness, respect, dignity and privacy  
13 throughout the criminal justice process.

14 (2) To timely disposition of the case.

15 (3) To reasonable and timely prior notification, upon request,  
16 of trial court, appellate, post-conviction, pardon, commutation,  
17 and parole proceedings and, ~~upon request,~~ to information about the  
18 sentence, and incarceration of the accused and to reasonable and  
19 timely notification of the escape, absconsion, and release of the  
20 defendant accused.

21 (4) To be present at all open criminal justice proceedings.

22 (5) To ~~communicate~~ confer with the prosecution.

23 (6) To be heard, upon request, at all open criminal justice pro-  
24 ceedings ~~considering~~ involving a plea ~~of guilty,~~ sentencing,  
25 parole, post-conviction relief, incarceration or release of the  
26 defendant, unless manifest injustice would result accused and at  
27 any open criminal justice proceeding during which a right of the  
28 victim is implicated.

29 (7) To restitution, as provided by law, from the person committing  
30 the offense that caused the victim's loss.

31 (8) To refuse an interview, ex parte contact, or other request by  
32 the ~~defendant~~ accused, or any other person acting on behalf of the  
33 ~~defendant, unless such request is authorized by law~~ accused.

34 (9) To a reasonable and timely opportunity to read the presentence  
35 reports relating to the crime.

36 (10) To reasonable protection from the accused and those acting on  
37 behalf of the accused throughout the criminal justice process.

38 (11) To the same rights in juvenile proceedings, where the offense  
39 is a felony would be a crime if committed by an adult, as guaranteed  
40 in this section, ~~provided that access to the social history report~~  
41 shall be determined by statute.

1           (B) The crime victim, the crime victim's attorney or other  
 2 lawful representative, or the attorney for the government upon the  
 3 government's initiative, or upon request of the crime victim, may  
 4 assert and seek enforcement of the rights enumerated in this sec-  
 5 tion and any other right afforded to the crime victim by law, which  
 6 shall be acted upon promptly.

7           (C) As used in this section, a "crime victim" is an individual  
 8 who suffers direct or threatened physical, financial, or emotional  
 9 harm as the result of the commission of a crime or juvenile offense.  
 10 The term "crime victim" does not include the accused or a person who  
 11 the court finds would not act in the best interests of a deceased,  
 12 incompetent, minor, or incapacitated victim.

13           (D) Nothing in this section is intended to, or shall be inter-  
 14 preted to, supersede an accused's federal constitutional rights,  
 15 nor to afford a victim an independent right to be heard as a party  
 16 during trial.

17           (E) Nothing in this section shall be construed to authorize a  
 18 court to dismiss a case, to set aside or void a finding of guilt or  
 19 an acceptance of a plea of guilty, or to ~~obtain~~ afford a convicted  
 20 person appellate, habeas corpus, or other relief from any criminal  
 21 judgment, ~~for a violation of the provisions of this section;~~ nor  
 22 be construed as creating a cause of action for money damages, costs  
 23 or attorney fees against the state, a county, a municipality, any  
 24 agency, instrumentality or person; ~~nor be construed to require the~~  
 25 government to provide legal counsel or representation to the crime  
 26 victim; nor be construed as limiting any rights for crime victims  
 27 previously conferred by statute. This section shall be self-enact-  
 28 ing. The legislature shall have the power to enact laws to ~~define,~~  
 29 further implement, preserve, and expand the rights guaranteed to  
 30 crime victims in the provisions of this section.

31           SECTION 2. The question to be submitted to the electors of the State of  
 32 Idaho at the next general election shall be as follows:

33           "Shall Section 22, Article I, of the Constitution of the State of Idaho  
 34 be amended to provide additional rights to crime victims, including the  
 35 right to reasonable and timely notification of open criminal justice pro-  
 36 ceedings, reasonable protection from the accused, the right to be heard at  
 37 certain open criminal justice proceedings, and to provide standing to assert  
 38 their rights?".

39           SECTION 3. The Legislative Council is directed to prepare the state-  
 40 ments required by Section 67-453, Idaho Code, and file the same.

41           SECTION 4. The Secretary of State is hereby directed to publish this  
 42 proposed constitutional amendment and arguments as required by law.