

IN THE SENATE

SENATE JOINT RESOLUTION NO. 102

BY JUDICIARY AND RULES 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 the same rights in juvenile proceedings, where the offense  
37 ~~is a felony~~ would be a crime if committed by an adult, as guaranteed  
38 in this section, ~~provided that access to the social history report~~  
39 ~~shall be determined by statute.~~

40 (B) The crime victim, the crime victim's attorney or other  
41 lawful representative, or the attorney for the government upon the  
42 government's initiative, or upon request of the crime victim, may

1 assert and seek enforcement of the rights enumerated in this sec-  
2 tion and any other right afforded to the crime victim by law, which  
3 shall be acted upon promptly.

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

10 (D) Nothing in this section is intended to, or shall be inter-  
11 preted to, supersede an accused's federal constitutional rights or  
12 the right to keep and bear arms under Section 11, Article I, of the  
13 Constitution of the state of Idaho, nor to afford a victim an inde-  
14 pendent right to be heard as a party during trial.

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

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

31 "Shall Section 22, Article I, of the Constitution of the State of  
32 Idaho be amended to provide additional rights to crime victims, including  
33 the right to reasonable and timely notification of open criminal justice  
34 proceedings, the right to be heard at certain open criminal justice proceed-  
35 ings, and to provide standing to assert their rights?"

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

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