

IN THE SENATE

SENATE JOINT RESOLUTION NO. 103

BY STATE AFFAIRS COMMITTEE

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 22, ARTICLE I, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO RIGHTS OF CRIME VICTIMS; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

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

SECTION 22. RIGHTS OF CRIME VICTIMS. (A) A crime victim, ~~as defined by statute,~~ has the following rights in all criminal justice proceedings:

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

(2) To timely disposition of the case.

(3) To reasonable and timely prior notification of ~~trial court, appellate and parole~~ all criminal justice proceedings and, ~~upon request, to information about the sentence, incarceration and release of the defendant.~~ In addition, a crime victim shall receive reasonable and timely notification of escape or absconcion from probation or parole.

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

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

(6) To be heard, upon request, ~~at all criminal justice proceedings considering a plea of guilty, sentencing, incarceration or release of the defendant, unless manifest injustice would result.~~

(7) To full and timely restitution, ~~as provided by law,~~ from the person committing the offense ~~that caused the victim's loss for economic losses.~~ The restitution amongst crime victims may be prioritized as provided by law.

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

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

(10) To reasonable protection from the accused and those acting on behalf of the accused.

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

1 (B) As used in this section, "criminal justice proceeding" means
 2 trial court, appellate and post-conviction proceedings, including
 3 acceptance of a plea of guilty, sentencing, parole proceedings, pa-
 4 role discharge, change in probation status, commutation, pardon,
 5 post-arrest and post-conviction release, and any proceeding during
 6 which a right of the crime victim is implicated, but shall not in-
 7 clude ex parte proceedings.

8 (C) In the criminal justice proceedings, the crime victim, the
 9 crime victim's attorney, or other lawful representative, or the at-
 10 torney for the government upon request of the crime victim, may as-
 11 sert and seek enforcement of the rights enumerated in this section
 12 and any other right afforded to the crime victim by law, which shall
 13 be acted upon promptly.

14 (D) As used in this section, a "crime victim" shall include any
 15 person or entity directly and proximately harmed by the commission
 16 of a felony, or a misdemeanor involving physical injury, threatened
 17 physical injury or a sexual offense, or a person or entity against
 18 whom such an offense is committed and may be further expanded in
 19 law.

20 (E) Nothing in this section is intended to, or shall be inter-
 21 preted to, supersede a defendant's federal constitutional rights,
 22 nor to afford a victim an independent right to be heard during
 23 trial.

24 (F) Nothing in this section shall be construed to authorize a
 25 court to dismiss a case, to set aside or void a finding of guilt or
 26 an acceptance of a plea of guilty, or to ~~obtain~~ afford a convicted
 27 person appellate, habeas corpus, or other relief from any criminal
 28 judgment, for a violation of the provisions of this section;
 29 nor be construed as creating a cause of action for money damages,
 30 costs or attorney fees against the state, a county, a municipality,
 31 any agency, instrumentality or person; nor be construed as limit-
 32 ing any rights for crime victims previously conferred by statute.
 33 This section shall be self-enacting. The legislature shall have
 34 the power to enact laws to define, further implement, preserve, and
 35 expand the rights guaranteed to crime victims in the provisions of
 36 this section.

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

39 "Shall Section 22, Article I, of the Constitution of the State of Idaho
 40 be amended to provide equal rights to crime victims, including the right to
 41 notification of court proceedings, reasonable protection from the accused,
 42 and a voice in the criminal justice process?"

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

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