

AN ACT proposing to create a new section of the Constitution of Kentucky relating to crime victims' rights.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔SECTION 1. IT IS PROPOSED THAT A NEW SECTION BE ADDED TO THE CONSTITUTION OF KENTUCKY TO READ AS FOLLOWS:

*(1) To secure for crime victims justice and due process and to ensure crime victims a meaningful role throughout the criminal and juvenile justice systems, a crime victim shall have the following rights in a criminal or public offense proceeding, which shall be respected and protected by law in a manner no less vigorous than the protections afforded to the accused in the criminal and juvenile justice systems to:*

*(a) Be treated with fairness and respect for the victim's safety, dignity, and privacy;*

*(b) Reasonable, accurate, and timely notice of and to be present at all proceedings involving the criminal or public offense conduct;*

*(c) Be heard in any proceeding involving release, plea, sentencing, disposition, parole, and any proceeding during which a right of the victim is implicated;*

*(d) Reasonable protection from the accused and those acting on behalf of the accused;*

*(e) Reasonable notice of any release or escape of the accused;*

*(f) Full and timely restitution;*

*(g) Proceedings free from unreasonable delay and to a prompt conclusion of the case;*

*(h) Confer with the attorney for the Commonwealth; and*

*(i) Be informed of all rights enumerated in this section.*

*(2) The victim, the victim's attorney or other lawful representative, or the attorney for the Commonwealth upon request of the victim may seek enforcement of the rights enumerated in this section and any other right afforded to the victim by law*

in any trial or appellate court with jurisdiction over the case. The court shall act promptly on such a request and afford a remedy for the violation of any right.

(3) (a) As used in this section, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime classified as a felony or a misdemeanor. If the victim is a minor or legally incapacitated, "victim" also means a parent, guardian, custodian or court-appointed special advocate.

(b) If the victim is deceased or incapacitated, one or more of the victim's spouse, parents, siblings, child, or other lawful representative shall be designated as "victim" for purpose of exercising the rights contained in this section, unless the person is the accused or a person the court finds would not act in the best interests of a deceased or incapacitated victim.

(c) In a case where the number of victims makes it impracticable to accord all victims the rights contained in this section, the court may fashion a reasonable procedure, which does not unduly complicate or prolong the proceeding, to give effect to this section.

(4) If any court believes that the health, safety, or welfare of a victim who is a minor or is legally incapacitated would not otherwise adequately be protected, the court may appoint a special advocate to represent the interest of the victim and to exercise those rights provided in this section. Communication between the victim and the special advocate shall be privileged.

(5) Nothing contained in this section shall be construed as altering the presumption of innocence in our criminal justice system, or to be a waiver of sovereign immunity or any other immunity or privilege maintained by the Commonwealth, its cabinets, departments, bureaus, political subdivisions, and agencies and its officers, agents, and employees.

➔Section 2. This amendment shall be submitted to the voters of the

Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415. The question to be submitted to the voters shall read as follows: "Are you in favor of providing constitutional rights to victims of crime, including the right to be treated fairly, with dignity and respect, and the right to be informed and to have a voice in the judicial process?"