STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE JOINT
RESOLUTION 1002   By: Biggs

AS INTRODUCED

A Joint Resolution directing the Secretary of State
to refer to the people for their approval or
rejection a proposed amendment to Section 34 of
Article II of the Constitution of the State of
Oklahoma; clarifying justice and due process rights
of victims; enumerating rights; authorizing victims
to assert and enforce said rights; providing ballot
title; and directing filing.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE

1ST SESSION OF THE 56TH OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for

their approval or rejection, as and in the manner provided by law,

the following proposed amendment to Section 34 of Article II of the

Constitution of the State of Oklahoma to read as follows:

Section 34. A. To preserve and protect the rights of secure

for victims to justice and due process, and ensure that victims are

throughout the criminal and juvenile justice systems, a victim shall

have the following rights, which shall be protected by law in a

manner no less vigorous than the rights afforded to the accused:

1   1. To be treated with fairness~~,~~ and respect ~~and~~ for the safety,

2   dignity~~,~~ and ~~are free from intimidation, harassment, or abuse,~~

3   ~~throughout the criminal justice process, any victim or family member~~

4   ~~of a victim of a crime has the right to know the status of the~~

5   ~~investigation and prosecution of the criminal case, including all~~

6   ~~proceedings wherein a disposition of a case is likely to occur, and~~

7   ~~where plea negotiations may occur. The victim or family member of a~~

8   ~~victim of a crime has the right to know the location of the~~

9   ~~defendant following an arrest, during a prosecution of the criminal~~

10 ~~case, during a sentence to probation or confinement, and when there~~

11 ~~is any release or escape of the defendant from confinement. The~~

12 ~~victim or family member of a victim of a crime has a right to be~~

13 ~~present at any proceeding where the defendant has a right to be~~

14 ~~present, to be heard at any sentencing or parole hearing, to be~~

15 ~~awarded restitution by the convicted person for damages or losses as~~

16 ~~determined and ordered by the court,~~ privacy of the victim;

17   2. Upon request, to reasonable and timely notice of and to be

18 present at all proceedings involving the criminal or delinquent

19 conduct;

20   3. To be heard in any proceeding involving release, plea,

21 sentencing, disposition, parole and any proceeding during which a

22 right of the victim is at issue;

23   4. To reasonable protection;

24

1   5. Upon request, to reasonable notice of any release or escape

2 of an accused;

3   6. To refuse an interview, deposition or other discovery

4 request made by the accused or any person acting on behalf of the

5 accused;

6   7. To full and timely restitution;

7   8. To proceedings free from unreasonable delay and prompt

8 conclusion of the case;

9   9. Upon request, to confer with the attorney for the

10 government; and ~~to~~

11   10. To be informed ~~by the state of the constitutional~~ of all

12 rights ~~of the victim~~ enumerated in this subsection.

13   B. ~~An exercise of any right by a victim or family member of a~~

14 ~~victim or the failure to provide a victim or family member of a~~

15 ~~victim any right granted by this section shall not be grounds for~~

16 ~~dismissing any criminal proceeding or setting aside any conviction~~

17 ~~or sentence~~ The victim, attorney for the victim or other lawful

18 representative, or the attorney for the government upon request of

19 the victim, may assert and have enforced in any trial court,

20 appellate court or other authority with jurisdiction over the case

21 the rights enumerated in this section and any other right afforded

22 to the victim by law. The court or other authority with

23 jurisdiction shall act promptly on such request. This section does

24 not create any cause of action for compensation or damages against

1 the state, any political subdivision of the state, any officer,

2 employee, or agent of the state or of any of its political

3 subdivisions, or any officer or employee of the court.

4   C. The Legislature, or the people by initiative or referendum,

5 ~~has~~ have the authority to enact substantive and procedural laws to

6 ~~define,~~ further implement, preserve and protect the rights

7 guaranteed to victims by this section~~, including the authority to~~

8 ~~extend any of these rights to juvenile proceedings and if enacted by~~

9 ~~the Legislature, youthful offender proceedings~~.

10   D. The enumeration in the Constitution of certain rights for

11 victims shall not be construed to deny or disparage other rights

12 granted by the Legislature or retained by victims.

13   SECTION 2. The Ballot Title for the proposed Constitutional

14 amendment as set forth in SECTION 1 of this resolution shall be in

15 the following form:

16   BALLOT TITLE

17 Legislative Referendum No. ____   State Question No. ____

18 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

19   This measure amends the State Constitution. This measure

20   addresses the justice and due process rights of victims. The

21   changes to this section will make clear what types of rights

22   victims have under the laws of this state. It will allow

23   victims to enforce these rights when necessary. Changes to this

24   section also make clear that a cause of action for compensation

1   or damages may not be made when seeking to enforce these rights.

2   It would also clarify the authority to pass procedural and

3   substantive laws to preserve and protect the rights of victims.

4   SHALL THE PROPOSAL BE APPROVED?

5   FOR THE PROPOSAL — YES   _____

6   AGAINST THE PROPOSAL — NO   _____

7   SECTION 3. The Chief Clerk of the House of Representatives,

8   immediately after the passage of this resolution, shall prepare and

9   file one copy thereof, including the Ballot Title set forth in

10 SECTION 2 hereof, with the Secretary of State and one copy with the

11 Attorney General.

12

13   56-1-5005   GRS   01/11/17