

HOUSE JOINT RESOLUTION 44

By Hazlewood

A RESOLUTION proposing an amendment to Article I, Section 35 of the Constitution of Tennessee, relative to the rights of crime victims.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED TWELFTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that a majority of all members of each house concurring, as shown by the yeas and nays entered on their journals, that it is proposed that Article I, Section 35 of the Constitution of Tennessee be amended by deleting the section in its entirety and substituting the following:

Section 35. That to preserve and protect the rights of victims of crime to justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, which shall be protected:

- (1) The right to be treated with fairness for the victim's safety, dignity, and privacy;
- (2) The right, upon request, to reasonable and timely notice of, and to be present at, all criminal public proceedings and all juvenile delinquency proceedings involving the accused;
- (3) The right to be heard in any proceeding involving release, plea, sentencing, disposition, and parole, as well as any public proceeding when relevant during which a right of the victim is implicated;
- (4) The right to be free from harassment, intimidation, and abuse throughout the criminal justice system, including reasonable protection from the accused or any person acting on behalf of the accused;

- (5) The right, upon request, to reasonable notice of any release, transfer, or escape of the accused or convicted person;
- (6) The right to full and timely restitution from the offender;
- (7) The right to a speedy trial or disposition and a prompt and final conclusion of the case after the conviction or sentence;
- (8) The right, upon request, to confer with the prosecution; and
- (9) The right to be fully informed of all rights afforded to crime victims.

A victim may assert the rights enumerated in this section. The General Assembly has the authority to enact substantive and procedural laws to further define, implement, preserve, and protect the rights guaranteed to victims by this section. This section must be interpreted to preserve and protect the rights of all persons to due process.

Other than as provided in the preceding paragraph, this section does not create any cause of action or claim for damages against the state, any political subdivision of the state; any officer, employee, or agent of the state or of any of its political subdivisions; or any officer or employee of the court.

As used in this section, a "victim" includes any person who is directly and proximately harmed by the commission of first degree murder, a felony offense, or a Class A or Class B misdemeanor offense, or who is directly and proximately harmed by the commission of any act that would constitute first degree murder, a felony offense, or a Class A or Class B misdemeanor offense if committed by an adult. The term "victim" includes a victim's lawful or court-appointed representative, the next of kin of a deceased, incompetent, or incapacitated victim, and the parent or guardian of a minor. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, incapacitated, or minor victim.

BE IT FURTHER RESOLVED, that the foregoing amendment be referred to the One Hundred Thirteenth General Assembly and that this resolution proposing such amendment be published in accordance with Article XI, Section 3 of the Constitution of Tennessee.

BE IT FURTHER RESOLVED, that the Clerk of the House of Representatives is directed to deliver copies of this resolution to the Secretary of State and to the Director of the Office of Legislative Information Services.