



2017 ASSEMBLY JOINT RESOLUTION 47

May 4, 2017 - Introduced by Representatives NOVAK, SANFELIPPO, SINICKI, JACQUE, FIELDS, FELZKOWSKI, SPIROS, MACCO, VORPAGEL, MURSAU, NEYLON, ZEPNICK, MURPHY, KULP, TRANEL, STEFFEN, KUGLITSCH, KERKMAN, BALLWEG, BRANDTJEN, HORLACHER, BERNIER, KLEEFISCH, SKOWRONSKI, SNYDER, YOUNG, E. BROOKS, KITCHENS, ROHRKASTE, THIESFELDT, SCHRAA and RIPP, cosponsored by Senators WANGGAARD, CARPENTER, PETROWSKI, HANSEN, NASS, LASEE, COWLES, OLSEN, HARSDDORF and FEYEN. Referred to Committee on Criminal Justice and Public Safety.

AUTHORS SUBJECT TO CHANGE

- 1 **To renumber and amend** section 9m of article I; and **to create** section 9m (1) of
2 article I, section 9m (4) of article I and section 9m (5) of article I of the
3 constitution; **relating to:** the rights of crime victims (first consideration).

Analysis by the Legislative Reference Bureau

This constitutional amendment, proposed to the 2017 legislature on first consideration, provides the following rights to victims of crime in this state:

1. To be treated with dignity, respect, courtesy, sensitivity, and fairness.
2. To privacy.
3. To have information or records protected that could be used to locate or harass the victim or that could disclose confidential or privileged information of the victim.
4. To proceedings free from unreasonable delay.
5. To timely disposition of the case, free from unreasonable delay.
6. To be present at all proceedings involving the case.
7. To reasonable protection from the accused throughout the justice process.
8. To reasonable and timely notification of proceedings.
9. To confer with the attorney for the government.
10. To be informed by and provide input to the attorney for the government about any case disposition agreement.
11. To be heard in any proceeding during which a right of the victim is implicated.
12. To have information submitted to and considered by the authority with jurisdiction over the case pertaining to the economic, physical, and psychological effect of the crime or juvenile offense upon the victim.

13. To timely notice of any release, escape, or death of the accused.

14. To refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused.

15. To full restitution and to be provided with assistance collecting restitution.

16. To have any moneys or property collected from a person who has been ordered to make restitution to the victim be applied first to restitution of the victim before being applied to any amounts owed by that person to the government.

17. To compensation, as provided by law.

18. To timely information about the outcome of the case.

19. To timely notice about all rights granted under this constitutional amendment and all other rights, privileges, or protections of the victim provided by law, including how such rights, privileges, or protections are enforced.

Currently, the constitution requires the state to ensure that crime victims be afforded certain privileges and protections, as provided by law, some of which are similar to some of the rights enumerated above.

The constitutional amendment also authorizes the victim to enforce his or her rights in court, and the attorney for the government in the case involving the victim may seek enforcement of the victim's rights upon request of the victim. The court or other authority with jurisdiction over the case must act promptly with respect to such an action and must afford a meaningful remedy for the violation of the victim's rights.

A constitutional amendment requires adoption by two successive legislatures, and ratification by the people, before it can become effective.

1 ***Resolved by the assembly, the senate concurring, That:***

2 **SECTION 1.** Section 9m of article I of the constitution is renumbered section 9m.

3 (2) (intro.) of article I and amended to read:

4 [Article I] Section 9m (2) (intro.) ~~This state shall treat crime victims, as defined~~

5 by law, with fairness, dignity and respect for their privacy. ~~This state shall ensure~~

6 that crime victims have all of the following privileges and protections as provided by

7 law: In order to preserve and protect victims' rights to justice and due process,

8 victims shall be entitled to all of the following rights, which shall vest at the time of

9 victimization and be protected by law in a manner no less vigorous than the

10 protections afforded to the accused:

11 (a) To be treated with dignity, respect, courtesy, sensitivity, and fairness.

12 (b) To privacy.

1 (c) To have information or records protected that could be used to locate or
2 harass the victim or that could disclose confidential or privileged information of the
3 victim.

4 (d) To proceedings free from unreasonable delay.

5 (e) To timely disposition of the case; the opportunity to attend court, free from
6 unreasonable delay.

7 (f) To be present at all times at all proceedings unless the trial court finds
8 sequestration is necessary to a fair trial for the defendant; involving the case.

9 (g) To reasonable protection from the accused throughout the criminal justice
10 process;

11 (h) To reasonable and timely notification of court proceedings; the opportunity
12 to

13 (i) To confer with the prosecution; the opportunity to make a statement to the
14 court at disposition; attorney for the government.

15 (j) To be informed by and provide input to the attorney for the government about
16 any case disposition agreement, including a plea agreement, deferred prosecution
17 agreement, or diversion agreement, before a final decision is made concerning such
18 an agreement.

19 (k) To be heard in any proceeding during which a right of the victim is
20 implicated, including release, plea, sentencing, disposition, parole, revocation,
21 expungement, or pardon.

22 (L) To have information submitted to the authority with jurisdiction over the
23 case pertaining to the economic, physical, and psychological effect of the crime or
24 juvenile offense upon the victim and to have that information considered by that
25 authority.

1 (m) To timely notice of any release or escape of the accused or death of the
2 accused if the accused is in custody or on supervision at the time of death.

3 (n) To refuse an interview, deposition, or other discovery request made by the
4 accused or any person acting on behalf of the accused.

5 (o) To full restitution; and to be provided with assistance collecting restitution.

6 (p) To have any moneys or property collected from a person who has been
7 ordered to make restitution to the victim be applied first to restitution of the victim
8 before being applied to any amounts owed by that person to the government.

9 (q) To compensation; and as provided by law.

10 (r) To timely information about the outcome of the case and the release of the
11 accused.

12 (s) To timely notice about all rights under this section and all other rights,
13 privileges, or protections of the victim provided by law, including how such rights,
14 privileges, or protections are enforced.

15 (3) Except as provided under sub. (2) (q), all provisions of this section are
16 self-executing. The legislature shall may provide remedies for the violation further
17 procedures for compliance with and enforcement of this section. Nothing in this
18 section, or in any statute enacted pursuant to this section, shall limit any right of the
19 accused which may be provided by law.

20 **SECTION 2.** Section 9m (1) of article I of the constitution is created to read:

21 [Article I] Section 9m (1) In this section, notwithstanding any statutory right,
22 privilege, or protection, “victim” means any person against whom an act is committed
23 that would constitute a crime if committed by a competent adult or any person who
24 is directly and proximately harmed by such an act. “Victim” does not include the

1 accused or a person who the court finds would not act in the best interests of a victim
2 who is deceased, incompetent, a minor, or incapacitated.

3 **SECTION 3.** Section 9m (4) of article I of the constitution is created to read:

4 [Article I] Section 9m (4) In addition to any other available enforcement of
5 rights or remedy for a violation of this section or of other rights, privileges, or
6 protections provided by law, the victim, the victim's attorney or other lawful
7 representative, or the attorney for the government upon request of the victim may
8 assert and seek in any trial or appellate court or before any other authority of
9 competent jurisdiction, enforcement of the rights in this section and any other right,
10 privilege, or protection afforded to the victim by law. The court or other authority
11 with jurisdiction over the case shall act promptly on such a request and afford a
12 meaningful remedy for the violation of any right of the victim. The court or other
13 authority with jurisdiction over the case shall clearly state on the record the reasons
14 for any decision regarding the disposition of a victim's right and shall provide those
15 reasons to the victim or the victim's attorney or other lawful representative.

16 **SECTION 4.** Section 9m (5) of article I of the constitution is created to read:

17 [Article I] Section 9m (5) This section does not create any cause of action for
18 damages against the state; any political subdivision of the state; any officer,
19 employee, or agent of the state or a political subdivision of the state acting in his or
20 her official capacity; or any officer, employee, or agent of the courts acting in his or
21 her official capacity.

22 **SECTION 5. Numbering of new provisions.** If another constitutional
23 amendment ratified by the people creates the number of any provision created in this
24 joint resolution, the chief of the legislative reference bureau shall determine the
25 sequencing and the numbering of the provisions whose numbers conflict.

