



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HOUSE JOINT RESOLUTION

CONSTITUTIONAL AMENDMENT

HC0003

Introduced 1/12/2011, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

ILCON Art. 1, Sec. 8.1

Proposes to amend the Bill of Rights Article of the Illinois Constitution relating to crime victim rights. Provides that a crime victim shall have the right to: (1) notice and to a hearing before a court ruling on an accused's request for access to any of the victim's records, information, or communications which are privileged or confidential by law; (2) be heard in person or in any other reasonable manner convenient to the victim at any proceeding in which a right of the victim is at issue; (3) be heard in person or in any other reasonable manner convenient to the victim at any plea, sentencing, reduction or change in sentence, or other proceeding in which a right of the victim is at issue; (4) timely disposition of the case following the arrest of the accused, including related post-conviction and post-judgment proceedings; (5) be heard in person or in any other reasonable manner convenient to the victim at any proceeding in which a right of the victim is at issue; (6) have the safety of the victim and the victim's family considered in denying or fixing the amount of bail and release conditions for the accused and in deciding any parole or post-judgment release decision; and (7) be informed of the conviction, the sentence, any post-judgment decision, any reduction of the sentence, the imprisonment, and the release of the accused. Effective upon being declared adopted.

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HOUSE JOINT RESOLUTION
 CONSTITUTIONAL AMENDMENT

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE
 NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE
 SENATE CONCURRING HEREIN, that there shall be submitted to the
 electors of the State for adoption or rejection at the general
 election next occurring at least 6 months after the adoption of
 this resolution a proposition to amend Section 8.1 of Article I
 of the Illinois Constitution as follows:

ARTICLE I
 BILL OF RIGHTS

(ILCON Art. 1, Sec. 8.1)

SECTION 8.1. CRIME VICTIM'S RIGHTS.

(a) To preserve and protect a victim's right to justice and
 due process, a crime victim ~~Crime victims, as defined by law,~~
 shall have the following rights ~~as provided by law~~:

(1) The right to be treated with fairness and respect
 for the victim's ~~their~~ dignity and privacy ~~throughout the
 criminal justice process.~~

(2) The right to timely notification of court
 proceedings and any related post-judgment proceedings.

(3) The right to notice and to a hearing before a court
 ruling on an accused's request for access to any of the
 victim's records, information, or communications which are

1 privileged or confidential by law.

2 (4) ~~(3)~~ The right to communicate with the prosecution.

3 (5) ~~(4)~~ The right to be heard in person or in any other
4 reasonable manner convenient to the victim at any plea,
5 sentencing, reduction or change in sentence, or other
6 proceeding in which a right of the victim is at issue ~~make~~
7 ~~a statement to the court at sentencing.~~

8 (6) ~~(5)~~ The right to review any written description of
9 the offense prepared for sentencing, reduction in
10 sentence, parole, early release or clemency and the
11 accused's prior criminal history ~~information about the~~
12 ~~conviction, sentence, imprisonment, and release of the~~
13 ~~accused.~~

14 (7) The right to be informed of the conviction, the
15 sentence, any post-judgment decision, any reduction of the
16 sentence, the imprisonment, and the release of the accused.

17 (8) ~~(6)~~ The right to timely disposition of the case
18 following the arrest of the accused, including related
19 post-conviction and post-judgment proceedings.

20 (9) ~~(7)~~ The right to be reasonably protected from the
21 accused ~~throughout the criminal justice process.~~

22 (10) The right to have the safety of the victim and the
23 victim's family considered in denying or fixing the amount
24 of bail and release conditions for the accused and in
25 deciding any parole or post-judgment release decision.

26 (11) ~~(8)~~ The right to be present at the trial and all

1 other court proceedings ~~on the same basis as the accused,~~
2 ~~unless the victim is to testify and the court determines~~
3 ~~that the victim's testimony would be materially affected if~~
4 ~~the victim hears other testimony at the trial.~~

5 (12) ~~(9)~~ The right to have present at all court
6 proceedings, subject to the rules of evidence, an advocate,
7 a victim-witness specialist, or other support person of the
8 victim's choice.

9 (13) ~~(10)~~ The right to restitution.

10 (b) Definition. For the purposes of this Section, the term
11 "crime victim" means a person directly and proximately harmed
12 as a result of the commission of a criminal offense. In the
13 case of a crime victim who is under 18 years of age,
14 incompetent, incapacitated, or deceased, the legal guardians
15 of the crime victim or the representatives of the crime
16 victim's estate, family members, or any other persons appointed
17 as suitable by the court may assume the crime victim's rights
18 under this Section, but in no event shall the accused be named
19 as such guardian or representative.

20 (c) A victim, a lawful representative of the victim
21 including the victim's lawyer, or the prosecuting attorney upon
22 request of the victim may assert the rights enumerated in
23 subsection (a) in any circuit or appellate court with
24 jurisdiction over the case as a matter of right. The court
25 shall act promptly on such a request.

26 ~~(b) The General Assembly may provide by law for the~~

1 ~~enforcement of this Section.~~

2 (d) ~~(e)~~ The General Assembly may provide for an assessment
3 against convicted defendants to pay for crime victims' rights.

4 (e) ~~(d)~~ Nothing in this Section or in any law enacted under
5 this Section shall be construed as creating a basis for
6 vacating a conviction. This Section does not create any cause
7 of action for compensation or damages against the State, any
8 political subdivision of the State, any officer, employee, or
9 agent of the State or of any of its political subdivisions, or
10 any officer or employee of the court ~~or a ground for appellate~~
11 ~~relief in any criminal case.~~

12 (Source: Amendment adopted at general election November 3,
13 1992.)

14 SCHEDULE

15 This Constitutional Amendment takes effect upon being
16 declared adopted in accordance with Section 7 of the Illinois
17 Constitutional Amendment Act.