

JAN 18 2013

A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE
STATE OF HAWAII RELATING TO RIGHTS OF CRIME VICTIMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to propose an
2 amendment to article I of the Constitution of the State of
3 Hawaii to provide recognized and protected constitutional rights
4 for crime victims and their surviving immediate family members.

5 The legislature finds that although those accused of crimes
6 have various rights specified in article I, section 14, of the
7 Constitution of the State of Hawaii, crime victims and their
8 survivors currently have no constitutional protections. The
9 legislature further finds that crime victims, whose injuries and
10 losses provide the justification and responsibility of the State
11 for criminal prosecution, should be treated with dignity,
12 respect and courtesy and their rights should be protected in a
13 manner no less vigorous than those of the accused.

14 The legislature additionally finds that because Hawaii is
15 one of eighteen states that do not have a victims' rights
16 constitutional amendment, it must join the other states and
17 amend its constitution to establish rights for crime victims.



1 The legislature notes that the proposed amendment does not
2 diminish the rights of offenders. Rather, it offers a better
3 balance between the rights of crime victims and the rights of
4 offenders.

5 The legislature therefore concludes that the Constitution
6 of the State of Hawaii should be amended to guarantee that crime
7 victims and their immediate surviving family members have
8 specific rights related to information pertaining to and
9 participation in the criminal justice process.

10 SECTION 2. Article I of the Constitution of the State of
11 Hawaii is amended by adding a new section to be appropriately
12 designated and to read as follows:

13 "RIGHTS OF CRIME VICTIMS"

14 Section _____ . A crime victim or deceased victim's surviving
15 immediate family members shall have the following rights:

16 1. To be treated with courtesy, fairness and respect for
17 their dignity and privacy throughout the criminal justice
18 process;

19 2. To receive protection from threats of harm;

20 3. To be informed of a victim's constitutional rights,
21 available financial assistance and other services available for
22 crime victims and witnesses;



- 1 4. To a speedy trial or disposition of their case;
- 2 5. Upon written request, to be notified in a timely manner
- 3 of all public court proceedings related to the offense, major
- 4 developments in the case and the final disposition of the case;
- 5 6. To be present at all public court proceedings related
- 6 to the offense unless the court determines that the victim's
- 7 presence would materially affect the victim's testimony;
- 8 7. To be consulted with and advised of any plea agreement
- 9 by the prosecuting attorney;
- 10 8. To be notified in a timely manner, be heard and
- 11 participate in any process or deliberation that may result in a
- 12 post-arrest release decision, a negotiated plea or sentencing of
- 13 the offender;
- 14 9. To be notified in a timely manner, provide input, be
- 15 heard and participate in any process or deliberation that may
- 16 result in the offender's post-conviction release from
- 17 confinement, including any type of release by the department of
- 18 public safety;
- 19 10. To be notified in a timely manner and be heard
- 20 regarding any developments relating to the release, discharge,
- 21 commitment or unauthorized absence of the offender who was



1 committed or involuntarily hospitalized under chapter 704 or
2 706, Hawaii Revised Statutes;

3 11. To be notified in a timely manner of changes in the
4 offender's custodial status, including but not limited to
5 transfer between facilities, escape, furlough, work release,
6 placement on supervised release, release on parole, release on
7 bail bond, release on appeal bond, any type of release by the
8 department of public safety and final discharge at the end of
9 the prison term;

10 12. To have property expeditiously returned by law
11 enforcement agencies when the property is no longer needed as
12 evidence; and

13 13. To receive prompt restitution from the person or
14 persons convicted.

15 **ENFORCEMENT**

16 The crime victim, the crime victim's lawful representative
17 and the attorney for the State may assert the rights established
18 by this section. A person accused of the crime may not obtain
19 any form of relief established by this section.

20 The rights established by this section may be asserted in
21 any circuit or appellate court with jurisdiction over the case



1 as a matter of right. The court shall act promptly on such a
2 request.

3 In any appeal in a criminal case, the State may assert as
4 error the court's denial of any criminal victim's right in the
5 proceeding to which the appeal relates.

6 The legislature shall have the power to enact laws to
7 define, implement and preserve the rights established by this
8 section."

9 SECTION 3. The question to be printed on the ballot shall
10 be as follows:

11 "Shall crime victims and their immediate surviving family
12 members be provided rights in the Constitution of the State
13 of Hawaii, including courteous, fair and respectful
14 treatment throughout the criminal justice process;
15 notification of critical proceedings, possible plea
16 agreements and case dispositions; a speedy trial; the
17 opportunity to be present at public proceedings; the
18 opportunity to speak at the sentencing hearing; financial
19 reimbursement from the offender; and notification of the
20 offender's release from custody?"

21 SECTION 4. New constitutional material is underscored.



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1 SECTION 5. This amendment shall take effect upon
2 compliance with article XVII, section 3, of the Constitution of
3 the State of Hawaii.

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S.B. NO. 509

Report Title:

Constitutional Amendment; Rights of Crime Victims

Description:

Proposes an amendment to the Constitution of the State of Hawaii guaranteeing that crime victims and their immediate surviving family members have specific rights related to information pertaining to and participation in the criminal justice process.

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