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Earth Day SPECIAL Franks, Montgomery push constitutional amendment for victims' rights

By Connor Radnovich, Cronkite News Service
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Maricopa County Attorney Bill Montgomery, left, and John Gillis, chief of the county attorney's office Victim Services Division, testify in Washington on behalf of a proposed constitutional amendment to protect victims' rights. (Cronkite News Service photo by Jessica Goldberg)

WASHINGTON – After his daughter was shot, execution-style, in 1979 by a gang member out to kill a police officer's child, John Gillis and his wife were forced to sit outside the courtroom during the killer's trial.

When a deal was cut letting the killer avoid the death penalty by pleading guilty to second-degree murder, Gillis was not present, nor was he allowed to speak at sentencing.

That is why a federal constitutional amendment is needed to guarantee crime victims have at least as many rights as accused criminals, Gillis told a House committee Thursday.

"Every crime victim in the United States should be guaranteed the right to be present, the right to be treated with dignity and respect and the right to be heard," said Gillis, now chief of the victim's services division in the Maricopa County Attorney's Office.

He was one of several witnesses supporting a bill that would add a victims' rights amendment to the Constitution. Proponents say a national amendment is needed to address the patchwork of victims' rights between states.

"Without this kind of overarching effort, I'm not sure we ever get where we need to be," said Rep. Trent Franks, R-Glendale, one of the sponsors of the measure.

Franks said the bill is patterned after victim protections in [Arizona's Constitution](#). It would give victims the right to be present at public proceedings; to speak at release, plea or sentencing proceedings; to be treated with respect and fairness; and to restitution.

But critics said there is "no compelling reason" for a constitutional amendment when legislation can achieve the same goals.

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Many states already recognize victims' rights and a federal amendment could undermine them, said Robert Mosteller, a University of North Carolina law professor.

He called the bill's definition of "victim" too broad, not drawing differences between felonies and misdemeanors or violent and property crimes. Without these distinctions, states could be overwhelmed by an increased workload and higher costs.

"This federal amendment obliterates those fine distinctions," Mosteller testified. "It would add cost and harm efficiency in overworked and underfunded state criminal justice systems."

But Maricopa County Attorney Bill Montgomery said a victims' rights amendment should be one of the top priorities for Congress, trailing only the budget and immigration reform.

At a news conference before Thursday's hearing, victims talked of being forced to wait outside courtrooms during trials, like "dogs with fleas," while defendants' families were escorted to reserved seats.

"Crime is unkind and vicious all by itself. But then we have the justice system that lives, exists to do just things," said Tim Jeffries, whose brother was murdered in 1981.

"But often ... the justice system is not particularly just," said Jeffries, a board member of [Arizona Voice](#) for Crime Victims.

Arizona's Constitution recognizes a number of victims' rights, including the right to be informed when a criminal is released from custody, to be present at all criminal proceedings where the defendant will appear, and to be heard at post-conviction release proceedings.

A federal amendment faces a long road to approval. It must first win two-thirds support in the House and Senate before being sent to the states, three-quarters of which have to ratify an amendment before it can take effect.

The 27th Amendment, limiting Congress' ability to adjust its pay, was the most recent to be approved, in 1992.

Montgomery said there have been "four or five" bills for a victims' rights amendment to the Constitution, dating back to 1996. But Franks said he is optimistic about the chances for this latest push.

"(The bill) is something that has gained significantly in bipartisan appeal, so I am convinced it has an excellent chance of passage if it has a fair vote," Franks said.

Recognizing victims' rights

A House bill proposing a victims' rights amendment to the Constitution says victims should have a right to:

- Fairness, respect, and dignity ... without denying the constitutional rights of the accused;
- Reasonable notice of, and not exclusion from, public proceedings relating to the offense;
- Be heard at any release, plea, sentencing, or other such proceeding;
- Proceedings free from unreasonable delay, to reasonable notice of the release

or escape of the accused;

- Due consideration of the crime victim's safety and privacy
- Restitution.
- Fully assert and enforce these rights in any court.

