

IN THE SENATE

SENATE JOINT RESOLUTION NO. 102

BY STATE AFFAIRS COMMITTEE

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 22, ARTICLE I, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO RIGHTS OF CRIME VICTIMS; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

Be It Resolved by the Legislature of the State of Idaho:

SECTION 1. That Section 22, Article I, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 22. RIGHTS OF CRIME VICTIMS. (A) A crime victim, as defined by statute, has the following rights:

(1) To be treated with fairness, respect, dignity and privacy throughout the ~~criminal~~ justice process.

(2) To timely disposition of the case.

(3) To reasonable and timely prior notification of trial court, appellate, post-conviction and parole proceedings and, upon request, to information about the sentence, incarceration, placing on probation, escape and release of the defendant accused.

(4) To be present at all criminal justice proceedings.

(5) To ~~communicate~~ confer with the prosecution.

(6) To be heard, upon request, at all criminal justice proceedings ~~considering,~~ including the right to be heard prior to the acceptance of a plea of guilty, sentencing, parole, parole discharge, incarceration, probation, commutation, pardon, or post-arrest and post-conviction release of the defendant, unless manifest injustice would result accused, and any proceeding during which a right of the victim is implicated.

(7) To full and timely restitution, ~~as provided by law,~~ from the person committing the offense that caused the victim's loss.

(8) To refuse an interview, ex parte contact, or other request by the ~~defendant accused,~~ or any other person acting on behalf of the defendant, ~~unless such request is authorized by law~~ accused.

(9) To a reasonable and timely opportunity to read the presentence reports relating to the crime.

(10) To the right to reasonable protection from the accused and those acting on behalf of the accused to be considered in all trial and appellate court decisions and all release decisions made by any authority with jurisdiction over the case.

(11) To the same rights in juvenile proceedings, where the offense is a felony would be a crime if committed by an adult, as guaranteed in this section, provided that access to the social history report shall be determined by statute.

1       (B) In the justice proceedings, the victim, the victim's attorney,  
 2 or other lawful representative, or the attorney for the government  
 3 upon request of the victim, may assert and seek enforcement  
 4 of the rights enumerated in this section and any other right  
 5 afforded to the victim by law in any trial or appellate court, or  
 6 before any other authority, with jurisdiction over the case. The  
 7 court or other authority with jurisdiction shall act promptly on  
 8 such a request.

9       (C) As used in this section, a "victim" shall include any person  
 10 or entity directly and proximately harmed by the commission of  
 11 a felony, or a misdemeanor involving physical injury, threatened  
 12 physical injury or a sexual offense, or a person or entity against  
 13 whom such an offense is committed and may be further expanded in  
 14 law.

15       (D) Nothing in this section shall be construed to authorize a  
 16 court to dismiss a case, to set aside or void a finding of guilt or  
 17 an acceptance of a plea of guilty, or to ~~obtain~~ afford a convicted  
 18 person appellate, habeas corpus, or other relief from any criminal  
 19 judgment, ~~for a violation of the provisions of this section;~~ nor  
 20 be construed as creating a cause of action for money damages, costs  
 21 or attorney fees against the state, a county, a municipality, any  
 22 agency, instrumentality or person; nor be construed as limiting any  
 23 rights for victims previously conferred by statute. This section  
 24 shall be self-enacting. The legislature shall have the power to  
 25 enact laws to ~~define,~~ further implement, preserve, and expand the  
 26 rights guaranteed to victims in the provisions of this section.

27       SECTION 2. The question to be submitted to the electors of the State of  
 28 Idaho at the next general election shall be as follows:

29       "Shall Section 22, Article I, of the Constitution of the State of Idaho  
 30 be amended to provide equal rights to victims of crime including the right to  
 31 notification of court proceedings, reasonable protection from the accused,  
 32 and a voice in the criminal justice process?".

33       SECTION 3. The Legislative Council is directed to prepare the state-  
 34 ments required by Section 67-453, Idaho Code, and file the same.

35       SECTION 4. The Secretary of State is hereby directed to publish this  
 36 proposed constitutional amendment and arguments as required by law.