IN THE SENATE

SENATE JOINT RESOLUTION NO. 103

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 QUES-
TION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUN-
CIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRE-
TARY 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 in all criminal jus-
tice proceedings:
(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,
appeal and parole all criminal justice proceedings and, upon
request, to information about the sentence, incarceration and re-
lease of the defendant. In addition, a crime victim shall receive
reasonable and timely notification of escape or absconson from
probation or parole.
(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 a plea of guilty, sentencing, incarceration or release
of the defendant, unless manifest injustice would result.
(7) To full and timely restitution, as provided by law, from the
person committing the offense that caused the victim's loss for
economic losses. The restitution amongst crime victims may be pri-
oritized as provided by law.
(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 reasonable protection from the accused and those acting on
behalf of the accused.
(11) To the same rights in juvenile proceedings, where the offense
is a felony if committed by an adult, as guaranteed in this section,
provided that access to the social history report shall be deter-
mined by statute.
(B) As used in this section, "criminal justice proceeding" means trial court, appellate and post-conviction proceedings, including acceptance of a plea of guilty, sentencing, parole proceedings, parole discharge, change in probation status, commutation, pardon, post-arrest and post-conviction release, and any proceeding during which a right of the crime victim is implicated, but shall not include ex parte proceedings.

(C) In the criminal justice proceedings, the crime victim, the crime victim's attorney, or other lawful representative, or the attorney for the government upon request of the crime victim, may assert and seek enforcement of the rights enumerated in this section and any other right afforded to the crime victim by law, which shall be acted upon promptly.

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

(E) Nothing in this section is intended to, or shall be interpreted to, supersede a defendant's federal constitutional rights, nor to afford a victim an independent right to be heard during trial.

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

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

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

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

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