

JAN 23 2015

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# A BILL FOR AN ACT

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

**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 victims of crime and their surviving immediate family  
5 members, to be known as "Marsy's Law".

6       The legislature finds that although those accused of crimes  
7 have various rights specified in article I, section 14, of the  
8 Constitution of the State of Hawaii, victims of crime and their  
9 survivors currently have no express constitutional protections.

10 The legislature further finds that victims of crime, whose  
11 injuries and losses provide the justification and responsibility  
12 of the State for criminal prosecution, should be treated with  
13 dignity, respect, and courtesy and their rights should be  
14 protected in a manner no less vigorous than those of the  
15 accused.



1       The legislature further finds that Hawaii, as one of  
2   eighteen states that do not have a victims' rights  
3   constitutional amendment, should join the other states and amend  
4   its constitution to establish rights for victims of crime. The  
5   legislature notes that the proposed amendment does not diminish  
6   the rights of offenders. Rather, it offers a better balance  
7   between the rights of victims of crime and the rights of  
8   offenders.

9       The legislature therefore concludes that the Constitution  
10   of the State of Hawaii should be amended to guarantee that  
11   victims of crime and their immediate surviving family members  
12   have specific rights related to information pertaining to and  
13   participation in the criminal justice system.

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

17                   "RIGHTS OF VICTIMS OF CRIME"

18       Section        . A victim of crime or deceased victim's  
19   surviving immediate family members shall have the following  
20   rights:



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

4        2. To receive protection from threats of harm;

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

8        4. To a speedy trial or disposition of the case;

9        5. To be notified in a timely manner of all public court  
10 proceedings related to the offense, major developments in the  
11 case and the final disposition of the case;

12       6. To be present at all public court proceedings related  
13 to the offense unless the court determines that the victim's  
14 presence would materially affect the victim's testimony;

15       7. To be given reasonable notice of any plea agreement and  
16 given a reasonable opportunity to provide input to the  
17 prosecuting attorney prior to the finalization of the plea  
18 agreement;

19       8. To be given reasonable notice of and be offered the  
20 opportunity to participate and be heard in any plea or  
21 sentencing of the offender or any court proceeding in which a



right of the victim is at issue or that may result in a post-  
arrest release decision;

9. To be notified and be offered the opportunity to  
participate and be heard in any process or deliberation that may  
result in the offender's post-conviction release from  
confinement, including any type of release by the department of  
public safety;

10. To be notified in a timely manner and be heard  
regarding any developments relating to the release, discharge,  
commitment or unauthorized absence of the offender who was  
committed or involuntarily hospitalized under chapter 704 or  
706, Hawaii Revised Statutes;

11. To be notified in a timely manner of changes in the  
offender's custodial status, including transfer between  
facilities, escape, furlough, work release, placement on  
supervised release, release on parole, release on bail bond,  
release on appeal bond, any type of release by the department of  
public safety and final discharge at the end of the prison term;

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



1        13. To full and timely restitution from the person or  
2 persons convicted.

3        No right in this section shall be construed to supersede  
4 the constitutional rights of the offender.

5                                **ENFORCEMENT**

6        The crime victim, the crime victim's lawful representative  
7 and the attorney for the State may assert the rights established  
8 by this section. A person accused of the crime may not obtain  
9 any form of relief established by this section.

10       The rights established by this section may be asserted in  
11 any circuit or appellate court with jurisdiction over the case  
12 as a matter of right. The court shall act promptly upon the  
13 assertion of rights under this section.

14       In any appeal in a criminal case, the State may assert as  
15 error the court's denial of any crime victim's right in the  
16 proceeding to which the appeal relates.

17       The legislature may enact laws to further define, implement  
18 and preserve the rights established by this section.

19       Nothing in this section shall be construed to create a  
20 cause of action against the State or counties, or any of their  
21 agencies, officials or employees."



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

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

SECTION 4. New constitutional material is underscored.

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

INTRODUCED BY:

Will Egan



# S.B. NO. 679

**Report Title:**

Constitutional Amendment; Rights of Victims of Crime

**Description:**

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

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

