

JAN 24 2018

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## A BILL FOR AN ACT

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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 legislature finds that victims of crime  
2       should be treated with dignity, respect, and courtesy and their  
3       rights should be protected throughout the criminal justice  
4       process. The legislature further finds that while those accused  
5       of crimes have various rights specified in article I, section 14  
6       of the Constitution of the State of Hawaii, victims of crime  
7       have no express constitutional protections.

8       The purpose of this Act is to propose an amendment to  
9       article I of the Constitution of the State of Hawaii to provide  
10      recognized and protected constitutional rights for victims of  
11      crime from the time of their victimization and continuing  
12      throughout the criminal justice process, to be known as "Marsy's  
13      Law".

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:



1                   "RIGHTS OF VICTIMS OF CRIME

2           Section       . A victim of crime shall enjoy the following  
3 rights beginning at the time of the victim's victimization and  
4 continuing throughout the criminal justice process:

5           1. To be reasonably protected from the accused;

6           2. To reasonable, accurate and timely notice of all  
7 proceedings related to the criminal conduct;

8           3. To not be excluded from any proceeding related to the  
9 criminal conduct, unless the court, after receiving clear and  
10 convincing evidence, determines that testimony by the victim  
11 would be materially altered if the victim heard other testimony  
12 at that proceeding;

13           4. To be reasonably heard at all proceedings related to  
14 the criminal conduct;

15           5. To the reasonable right to confer with the attorney for  
16 the State in the case;

17           6. To full and timely restitution as provided in law;

18           7. To proceedings free from unreasonable delay;

19           8. To be treated with fairness and with respect for the  
20 victim's dignity and privacy;



1        9. To be informed in a timely manner of any plea bargain,  
2 deferred prosecution agreement or final disposition; and

3        10. To be informed of these rights and other services  
4 available for crime victims.

5        In any proceeding related to the criminal conduct, the  
6 court shall ensure that the crime victim is afforded these  
7 rights.

8        The crime victim, or the crime victim's lawful  
9 representative, and the attorney for the State may assert these  
10 rights.

11        A person accused of the crime may not obtain any form of  
12 relief established by this section.

13        No right in this section shall be construed to supersede  
14 the constitutional rights of the accused.

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

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

20        As used herein, "a victim of crime", "crime victim", or  
21 "victim" means any person who suffers direct, proximate or



1 threatened physical, psychological or financial harm as a result  
2 of the commission or attempted commission of a crime, and shall  
3 include the lawful representative of a victim who is a minor,  
4 incompetent, physically or mentally incapacitated or deceased.  
5 The term does not include the accused or a person whom the court  
6 finds would not act in the best interests of a minor,  
7 incompetent, incapacitated or deceased victim."

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

10       "Shall victims of crime be provided rights in the  
11       Constitution of the State of Hawaii, including fair and  
12       respectful treatment throughout the criminal justice  
13       process; notification of critical proceedings, possible plea  
14       agreements and case dispositions; proceedings free from  
15       unreasonable delay; the opportunity to be present at all  
16       proceedings related to the criminal conduct; the opportunity  
17       to speak at the sentencing hearing; and financial  
18       restitution?"

19       SECTION 4. New constitutional material is underscored.



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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INTRODUCED BY:

Karl Rhoads



# S.B. NO. 2975

**Report Title:**

Constitutional Amendment; Rights of Victims of Crime

**Description:**

Proposes an amendment to the Hawaii State Constitution to provide victims of crime with specific rights related to 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.*

