

JAN 24 2019

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 legislature finds that victims of crime
2 should be treated with dignity, respect, and courtesy and that
3 their 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 rights for victims of crimes throughout the criminal and
11 juvenile justice systems.

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

15 "RIGHTS OF VICTIMS OF CRIME



1 Section _____ . To preserve and protect justice and due
2 process throughout the criminal and juvenile justice systems, a
3 victim shall have the following rights which shall be protected
4 in a manner no less vigorous than the rights afforded to the
5 accused:

6 1. To be treated with fairness and respect for the
7 victim's safety, dignity, and privacy;

8 2. Upon request, to receive reasonable and timely notice
9 of, and to be present at, all public proceedings involving the
10 criminal conduct;

11 3. To be heard in any public proceeding involving release,
12 plea, sentencing, disposition, parole, and any public proceeding
13 during which a right of the victim is implicated;

14 4. To reasonable protection from the accused or any person
15 acting on behalf of the accused;

16 5. Upon request, to reasonable notice of any release or
17 escape of the accused;

18 6. To full and timely restitution;

19 7. To proceedings free from unreasonable delay and a
20 prompt conclusion of the case;



1 8. Upon request, to confer with the attorney for the
2 government; and

3 9. To be informed of all rights enumerated in this
4 section.

5 The victim, the victim's attorney or other lawful
6 representative, or the attorney for the government upon request
7 of the victim may assert, and have enforced, the rights
8 enumerated in this section and any other right afforded to the
9 victim by law in any trial or appellate court, or before any
10 other authority with jurisdiction over the case. The court or
11 other authority with jurisdiction shall act promptly on such a
12 request. This section does not create any cause of action for
13 compensation or damages against the State, any political
14 subdivision of the State, any officer, employee, or agent of the
15 State or of any of its political subdivisions, or any officer or
16 employee of the court.

17 As used in this section, "victim" includes any person
18 against whom a crime has been committed by an adult or juvenile;
19 or who is directly and proximately harmed by the commission of
20 the crime. "Victim" does not include the accused or a person
21 whom the court finds would not act in the best interests of a



1 deceased, incompetent, minor, or incapacitated victim. This
2 section applies to victims of the following crimes: felonies;
3 sexual offenses; and all other crimes in which the victim
4 suffers death, bodily injury, unwanted physical contact,
5 unwanted communications, and violation of privacy, or the threat
6 or risk thereof. This section shall not apply to non-felony
7 crimes of theft."

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; to be heard
14 during possible plea agreements and case dispositions;
15 proceedings free from unreasonable delay; the opportunity to
16 be present at all proceedings related to the criminal
17 conduct; financial reimbursement from the offender; and
18 notification of the offender's release from custody?"

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.

4

INTRODUCED BY: *Kal Rhoan*



S.B. NO. 1123

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.

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