

Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

State of Arkansas
91st General Assembly
Regular Session, 2017

HJR 1017

By: Representative C. Douglas

HOUSE JOINT RESOLUTION

AN AMENDMENT TO THE ARKANSAS CONSTITUTION PROVIDING CERTAIN ADDITIONAL RIGHTS TO VICTIMS OF CRIMES; AND PROVIDING THAT THE GENERAL ASSEMBLY SHALL IMPLEMENT THE AMENDMENT BY LAW, INCLUDING WITHOUT LIMITATION THE CREATION OF AN ENTITY WITHIN STATE GOVERNMENT TO IMPOSE PENALTIES AND REMEDIES FOR VIOLATIONS OF THE AMENDMENT.

Subtitle

AN AMENDMENT TO THE ARKANSAS CONSTITUTION PROVIDING CERTAIN ADDITIONAL RIGHTS TO VICTIMS OF CRIMES.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FIRST GENERAL ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

That the following is proposed as an amendment to the Constitution of the State of Arkansas, and upon being submitted to the electors of the state for approval or rejection at the next general election for Representatives and Senators, if a majority of the electors voting thereon at the election adopt the amendment, the amendment shall become a part of the Constitution of the State of Arkansas, to wit:

SECTION 1. The Arkansas Constitution is amended to add a new amendment to read as follows:

(a) A victim of a crime shall have the following rights, beginning at



the time of victimization:

(1) The right to due process and to be treated with fairness and respect for the victim's dignity;

(2) The right to an advocate of the victim's choice at all times;

(3) The right to counsel;

(4) The right to receive information and communication in an effective manner in accordance with the primary language of the victim;

(5) The right to be free from intimidation, harassment, and abuse;

(6) The right to be reasonably protected from the accused and any person acting on behalf of the accused;

(7) The right to have the safety and welfare of the victim and the victim's family considered when the court sets bail or makes a release decision;

(8) The right to:

(A) Prevent the disclosure of information or records:

(i) That could be used to locate or harass the victim or the victim's family; or

(ii) Which could disclose confidential or privileged information about the victim; and

(B) Be notified of a request for information or records under subdivision (a)(8)(A) of this section;

(9) The right to privacy, including without limitation the right to:

(A) Refuse an interview, deposition, or other discovery request by the accused; and

(B) Set conditions on the conduct of any interaction to which the victim consents;

(10) Right to reasonable and timely notification of an arrest;

(11) The right to reasonable, accurate, and timely notice of, and to be present at, all proceedings involving the criminal or delinquent conduct, including without limitation:

(A) A release proceeding;

(B) A bail proceeding;

(C) A plea proceeding;

- (D) A sentencing proceeding;
- (E) An adjudication or disposition proceeding;
- (F) A parole proceeding; and
- (G) Any proceeding during which a right of the victim is

implicated;

(12) The right to testify and be heard in a proceeding under subdivision (a)(11) of this section involving:

- (A) Release;
- (B) Bail;
- (C) Plea;
- (D) Sentencing;
- (E) Adjudication and disposition;
- (F) Parole; and
- (G) Any proceeding during which a right of the victim is

implicated;

(13) The right to be promptly notified of the release or escape of the offender;

(14) The right of the victim or the victim's counsel to confer with the attorney for the government;

(15) The right to:

(A) Provide information regarding the impact of the offender's conduct on the victim and the victim's family to the individual responsible for conducting any presentence or disposition investigation or compiling any presentence investigation report or plan of disposition; and

(B) Have information provided under subdivision (a)(15)(A) of this section considered in sentencing or disposition recommendations;

(16) The right to receive a timely copy of a presentence report or plan of disposition and any other report or record relevant to the exercise of a victim's right, except for those portions made confidential by law;

(17) The right to the prompt return of the victim's property when no longer needed as evidence in the case;

(18)(A) The right to full and timely restitution in every case and from each offender for all losses suffered by the victim as a result of the criminal conduct and as provided by law for all losses suffered as a result of delinquent conduct.

(B) If an offender is ordered to make restitution to the victim and the state, all moneys and property collected from the offender shall be applied equally to the restitution owed the victim and the restitution owed the state.

(19) The right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related postjudgment proceedings;

(20) The right to be timely informed of the:

(A) Conviction, adjudication, sentence, disposition, place and time of incarceration, detention, or other disposition of the offender; and

(B) Scheduled release date of the offender;

(21)(A) The right to:

(i) Be informed in a timely manner of all postjudgment processes and procedures;

(ii) Participate in postjudgment processes and procedures;

(iii) Provide information to the release authority to be considered before any release decision is made, including without limitation the opportunity to testify and be heard at postjudgment processes and procedures; and

(iv) Be notified of any release decision regarding the offender.

(B) Any parole authority shall extend the right to testify and be heard to any victim harmed by the offender;

(22) The right to:

(A) Be informed in a timely manner of clemency and criminal record sealing procedures;

(B) Provide information to the Governor, the court, the Parole Board, any clemency board and any other authority in the postjudgment processes and procedures, including without limitation the opportunity to testify and be heard at the postjudgment processes and procedures;

(C) Have the information under subdivision (a)(22)(B) of this section considered before a clemency or criminal record sealing decision is made; and

(D) Be timely notified of the outcome of a clemency or

criminal record sealing decision in advance of any release of the offender;
and

(23)(A) The right to be timely informed of the rights under this section and to be timely informed that a victim may seek the advice of an attorney with respect to the victim's rights.

(B) Information under subdivision (a)(23)(A) of this section shall be made available to the general public and provided to each victim of a crime.

(b) The General Assembly shall implement this amendment by law, including without limitation the enactment of laws:

(1) Defining terms used within this amendment as the General Assembly deems necessary, including without limitation the term "victim";

(2) Establishing remedies for violations of this section; and

(3) Establishing by law an entity within state government to:

(A) Prepare a standard notification to be used by all law enforcement and other necessary persons that informs a victim of his or her rights under this section; and

(B)(i) Receive complaints of violations of this section;

(ii) Investigate complaints of violations of this section when the entity deems such investigation necessary; and

(iii) Impose remedies for violations of this section.

SECTION 2. BALLOT TITLE AND POPULAR NAME. When this amendment is submitted to the electors of this state on the general election ballot:

(1) The title of this joint resolution shall be the ballot title; and

(2) The popular name shall be "An Amendment to the Arkansas Constitution to Provide Additional Rights for Crime Victims and a Mechanism for the Enforcement of Those Rights".