

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE JOINT
RESOLUTION NO. 1040

By: Breckinridge

AS INTRODUCED

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to the Oklahoma Constitution by adding a new section to Article II to be designated as Section 34; providing for Bill of Rights for victims; providing ballot title; and directing filing.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE
2ND SESSION OF THE 44TH OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to Article II of the Constitution of the State of Oklahoma by adding a new Section 34 to read as follows:

Section 34. A. To preserve and protect the rights of victims to justice and due process, a victim of a crime has a right:

1. To be treated with fairness, respect and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process;

2. To be informed, upon request, when the accused or convicted person is released from custody or has escaped;

3. To be present at and, upon request, to be informed of all criminal proceedings where the defendant has the right to be present;

4. To be heard at any proceeding involving a post-arrest release decision, a negotiated plea, and sentencing;

5. To refuse an interview, deposition, or other discovery request by the defendant, the attorney for the defendant, or other person acting on behalf of the defendant;

6. To confer with the prosecution, after the crime against the victim has been charged, before trial or before any disposition of the case and to be informed of the disposition;

7. To read pre-sentence reports relating to the crime against the victim when they are available to the defendant;

8. To receive prompt restitution from the person or persons convicted of the criminal conduct that caused the loss or injury of the victim;

9. To be heard at any proceeding when any post-conviction release from confinement is being considered;

10. To a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence;

11. To have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect the rights of victims and to have these rules be subject to amendment or repeal by the Legislature to ensure the protection of these rights; and

12. To be informed of the constitutional rights of the victim.

B. An exercise by a victim of any right granted by this section shall not be grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.

C. "Victim" means a person against whom the criminal offense has been committed or, if the person is killed or incapacitated, the person's spouse, parent, child or other lawful representative, except if the person is in custody for an offense or is the accused.

D. The Legislature, or the people by initiative or referendum, has the authority to enact substantive and procedural laws to

define, implement, preserve and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings.

E. The enumeration in the constitution of certain rights for victims shall not be construed to deny or disparage others granted by the Legislature or retained by victims.

SECTION 2. The Ballot Title for the proposed Constitutional amendment as set forth in SECTION 1 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends the Oklahoma Constitution. The measure seeks to preserve and protect the rights of crime victims. Victims would be required to be treated with fairness and dignity. A victim would be given notice when an accused or convicted person is going to be released from prison. The measure would ensure that victims have a role in the criminal justice process. Convicted persons would be made to pay back money to their victims. The Legislature or the people of Oklahoma would be given the right to pass laws to implement the rights of victims. The Legislature or the people of Oklahoma could extend these victim protections to juvenile proceedings.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

 / YES, FOR THE AMENDMENT

 / NO, AGAINST THE AMENDMENT

SECTION 3. The Chief Clerk of the House of Representatives, immediately after the passage of this resolution, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 2 hereof, with the Secretary of State and one copy with the Attorney General.

44-2-8021

AJW