

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 HOUSE JOINT
5 RESOLUTION 1002

 By: Biggs, Downing, Sanders,
 Wright and Jordan of the
 House

6
7 and

8 Sykes of the Senate
9
10

11 AS INTRODUCED

12 A Joint Resolution directing the Secretary of State
13 to refer to the people for their approval or
14 rejection a proposed amendment to Section 34 of
15 Article II of the Constitution of the State of
16 Oklahoma; clarifying justice and due process rights
17 of victims; enumerating rights; authorizing victims
18 to assert and enforce said rights; providing ballot
19 title; and directing filing.
20

21 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE
22 1ST SESSION OF THE 56TH OKLAHOMA LEGISLATURE:

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

1 Section 34. A. To ~~preserve and protect the rights of~~ secure
2 for victims ~~to~~ justice and due process, ~~and ensure that victims are~~
3 throughout the criminal and juvenile justice systems, a victim shall
4 have the following rights, which shall be protected by law in a
5 manner no less vigorous than the rights afforded to the accused:

6 1. To be treated with fairness, and respect and for the safety,
7 dignity, ~~and are free from intimidation, harassment, or abuse,~~
8 ~~throughout the criminal justice process, any victim or family member~~
9 ~~of a victim of a crime has the right to know the status of the~~
10 ~~investigation and prosecution of the criminal case, including all~~
11 ~~proceedings wherein a disposition of a case is likely to occur, and~~
12 ~~where plea negotiations may occur. The victim or family member of a~~
13 ~~victim of a crime has the right to know the location of the~~
14 ~~defendant following an arrest, during a prosecution of the criminal~~
15 ~~case, during a sentence to probation or confinement, and when there~~
16 ~~is any release or escape of the defendant from confinement. The~~
17 ~~victim or family member of a victim of a crime has a right to be~~
18 ~~present at any proceeding where the defendant has a right to be~~
19 ~~present, to be heard at any sentencing or parole hearing, to be~~
20 ~~awarded restitution by the convicted person for damages or losses as~~
21 ~~determined and ordered by the court,~~ privacy of the victim;

22 2. Upon request, to reasonable and timely notice of and to be
23 present at all proceedings involving the criminal or delinquent
24 conduct;

1 3. To be heard in any proceeding involving release, plea,
2 sentencing, disposition, parole and any proceeding during which a
3 right of the victim is at issue;

4 4. To reasonable protection;

5 5. Upon request, to reasonable notice of any release or escape
6 of an accused;

7 6. To refuse an interview, deposition or other discovery
8 request made by the accused or any person acting on behalf of the
9 accused;

10 7. To full and timely restitution;

11 8. To proceedings free from unreasonable delay and prompt
12 conclusion of the case;

13 9. Upon request, to confer with the attorney for the
14 government; and ~~to~~

15 10. To be informed by the state of the constitutional of all
16 rights of the victim enumerated in this subsection.

17 ~~B. An exercise of any right by a victim or family member of a~~
18 ~~victim or the failure to provide a victim or family member of a~~
19 ~~victim any right granted by this section shall not be grounds for~~
20 ~~dismissing any criminal proceeding or setting aside any conviction~~
21 ~~or sentence~~ The victim, attorney for the victim or other lawful
22 representative, or the attorney for the government upon request of
23 the victim, may assert and have enforced in any trial court,
24 appellate court or other authority with jurisdiction over the case

1 the rights enumerated in this section and any other right afforded
2 to the victim by law. The court or other authority with
3 jurisdiction shall act promptly on such request. This section does
4 not create any cause of action for compensation or damages against
5 the state, any political subdivision of the state, any officer,
6 employee, or agent of the state or of any of its political
7 subdivisions, or any officer or employee of the court.

8 C. The Legislature, or the people by initiative or referendum,
9 ~~has~~ have the authority to enact substantive and procedural laws to
10 ~~define,~~ further implement, preserve and protect the rights
11 guaranteed to victims by this section, ~~including the authority to~~
12 ~~extend any of these rights to juvenile proceedings and if enacted by~~
13 ~~the Legislature, youthful offender proceedings.~~

14 D. The enumeration in the Constitution of certain rights for
15 victims shall not be construed to deny or disparage other rights
16 granted by the Legislature or retained by victims.

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

20 BALLOT TITLE

21 Legislative Referendum No. _____ State Question No. _____

22 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

23 This measure amends the State Constitution. This measure

24 addresses the justice and due process rights of victims. The

changes to this section will make clear what types of rights victims have under the laws of this state. It will allow victims to enforce these rights when necessary. Changes to this section also make clear that a cause of action for compensation or damages may not be made when seeking to enforce these rights. It would also clarify the authority to pass procedural and substantive laws to preserve and protect the rights of victims. SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL — YES _____

AGAINST THE PROPOSAL — NO _____

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.

COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/14/2017 - DO PASS, As Coauthored.