

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

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

4 ENGROSSED SENATE

5 JOINT

6 RESOLUTION NO. 46

By: Sykes of the Senate

and

Biggs, Downing, McDugle,
McBride and Cockroft of the
House

9
10 A Joint Resolution directing the Secretary of State
11 to refer to the people for their approval or
12 rejection a proposed amendment to Section 34 of
13 Article II of the Oklahoma Constitution; expanding
14 certain rights of victims of criminal acts; requiring
15 enforcement of certain rights; defining term;
16 modifying certain legislative authority; providing
17 ballot title; and directing filing.

18 BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
19 1ST SESSION OF THE 56TH OKLAHOMA LEGISLATURE:

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

24 Section 34. A. ~~To preserve and protect the rights of victims~~
~~to justice and due process, and ensure that victims are treated with~~
~~fairness, respect and dignity, and are free from intimidation,~~

1 ~~harassment, or abuse, throughout the criminal justice process, any~~
2 ~~victim or family member of a victim of a crime has the right to know~~
3 ~~the status of the investigation and prosecution of the criminal~~
4 ~~case, including all proceedings wherein a disposition of a case is~~
5 ~~likely to occur, and where plea negotiations may occur. The victim~~
6 ~~or family member of a victim of a crime has the right to know the~~
7 ~~location of the defendant following an arrest, during a prosecution~~
8 ~~of the criminal case, during a sentence to probation or confinement,~~
9 ~~and when there is any release or escape of the defendant from~~
10 ~~confinement. The victim or family member of a victim of a crime has~~
11 ~~a right to be present at any proceeding where the defendant has a~~
12 ~~right to be present, to be heard at any sentencing or parole~~
13 ~~hearing, to be awarded restitution by the convicted person for~~
14 ~~damages or losses as determined and ordered by the court, and to be~~
15 ~~informed by the state of the constitutional rights of the victim.~~

16 ~~B. An exercise of any right by a victim or family member of a~~
17 ~~victim or the failure to provide a victim or family member of a~~
18 ~~victim any right granted by this section shall not be grounds for~~
19 ~~dismissing any criminal proceeding or setting aside any conviction~~
20 ~~or sentence.~~

21 ~~C. To secure justice and due process for victims throughout the~~
22 ~~criminal and juvenile justice systems, a victim of a crime shall~~
23 ~~have the following rights, which shall be protected by law in a~~
24 ~~manner no less vigorous than the rights afforded to the accused: to~~

1 be treated with fairness and respect for the victim's safety,
2 dignity and privacy; upon request, to reasonable and timely notice
3 of and to be present at all proceedings involving the criminal or
4 delinquent conduct; to be heard in any proceeding involving release,
5 plea, sentencing, disposition, parole and any proceeding during
6 which a right of the victim is implicated; to reasonable protection;
7 upon request, to reasonable notice of any release or escape of an
8 accused; to refuse an interview or other request made by the accused
9 or any person acting on behalf of the accused, other than a refusal
10 to appear if subpoenaed by defense counsel; to full and timely
11 restitution; to proceedings free from unreasonable delay and a
12 prompt conclusion of the case; upon request, to confer with the
13 attorney for the state; and to be informed of all rights enumerated
14 in this section.

15 B. The victim, the victim's attorney or other lawful
16 representative, or the attorney for the state upon request of the
17 victim may assert in any trial or appellate court, or before any
18 other authority with jurisdiction over the case, and have enforced
19 the rights enumerated in this section and any other right afforded
20 to the victim by law. The court or other authority with
21 jurisdiction shall act promptly on such a request. This section
22 does not create any cause of action for compensation or damages
23 against the state, any political subdivision of the state, any
24

1 officer, employee or agent of the state or of any of its political
2 subdivisions, or any officer or employee of the court.

3 C. As used in this section, a "victim" includes any person
4 against whom the criminal offense or delinquent act is committed or
5 who is directly and proximately harmed by the commission of the
6 offense or act. The term "victim" does not include the accused or a
7 person whom the court finds would not act in the best interests of a
8 deceased, incompetent, minor or incapacitated victim.

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

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

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

21 BALLOT TITLE

22 Legislative Referendum No. _____ State Question No. _____

23 THE GIST OF THE PROPOSITION IS AS FOLLOWS:
24

1 This measure would amend the Oklahoma Constitution. It would
2 amend Section 34 of Article 2. This section provides rights for
3 crime victims. This measure would expand rights of crime
4 victims. It requires crime victims to be informed of their
5 rights. It requires courts to enforce these rights.

6 SHALL THE PROPOSAL BE APPROVED?

7 FOR THE PROPOSAL — YES _____

8 AGAINST THE PROPOSAL — NO _____

9 SECTION 3. The President Pro Tempore of the Senate shall,
10 immediately after the passage of this resolution, prepare and file
11 one copy thereof, including the Ballot Title set forth in SECTION 2
12 hereof, with the Secretary of State and one copy with the Attorney
13 General.

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15 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/29/2017 - DO PASS,
16 As Coauthored.
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