

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE JOINT
RESOLUTION 1037

By: Downing

AS INTRODUCED

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

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE
2ND SESSION OF THE 56TH 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 Section 34 of Article II of the Oklahoma Constitution to read as follows:

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, harassment, or abuse, throughout the criminal justice process, any victim or family member of a victim of a crime has the right to know~~

~~the status of the investigation and prosecution of the criminal case, including all proceedings wherein a disposition of a case is likely to occur, and where plea negotiations may occur. The victim or family member of a victim of a crime has the right to know the location of the defendant following an arrest, during a prosecution of the criminal case, during a sentence to probation or confinement, and when there is any release or escape of the defendant from confinement. The victim or family member of a victim of a crime has a right to be present at any proceeding where the defendant has a right to be present, to be heard at any sentencing or parole hearing, to be awarded restitution by the convicted person for damages or losses as determined and ordered by the court, and to be informed by the state of the constitutional rights of the victim.~~

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

~~C. To secure justice and due process for victims throughout the criminal and juvenile justice systems, a victim of a crime shall have the following rights, which shall be protected by law in a manner no less vigorous than the rights afforded to the accused: to be treated with fairness and respect for the victim's safety, dignity and privacy; upon request, to reasonable and timely notice~~

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

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

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

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 and if enacted by the Legislature, youthful offender proceedings.~~

~~D- E.~~ E. The enumeration in the Constitution of certain rights for victims shall not be construed to deny or disparage other rights granted guaranteed 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 would amend the Oklahoma Constitution. It would amend Section 34 of Article 2. This section provides rights for crime victims. This measure would expand rights of crime

victims. It requires crime victims to be informed of their
rights. It requires courts to enforce these rights.

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.

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