

PROPOSED CONSTITUTIONAL AMENDMENT CRIME VICTIM RIGHTS

BALLOT QUESTION

Shall the Pennsylvania Constitution be amended to grant certain rights to crime victims, including to be treated with fairness, respect and dignity; considering their safety in bail proceedings; timely notice and opportunity to take part in public proceedings; reasonable protection from the accused; right to refuse discovery requests made by the accused; restitution and return of property; proceedings free from delay; and to be informed of these rights, so they can enforce them?

Plain English Statement of the Office of Attorney General

The proposed amendment, if approved by the electorate, will add a new section to Article I of the Pennsylvania Constitution. That amendment will provide victims of crimes with certain, new constitutional rights that must be protected in the same way as the rights afforded to individuals accused of committing a crime.

The proposed amendment defines “victim” as both a person against whom the criminal act was committed and any person who was directly harmed by it. The accused or any person a court decides is not acting in the best interest of a victim cannot be a victim.

Generally, the proposed amendment would grant victims the constitutional right to receive notice and be present and speak at public proceedings involving the alleged criminal conduct. It would also grant victims the constitutional right to receive notice of any escape or release of the accused and the right to have their safety and the safety of their family considered in setting the amount of bail and other release conditions. It would also create several other new constitutional rights, such as the right to timely restitution and return of property, the right to refuse to answer questions asked by the accused, and the right to speak with a government attorney.

Specifically, the proposed amendment would establish the following new rights for victims:

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- To be treated with fairness and respect for the victim’s safety, dignity and privacy
 - To have the safety of the victim and the victim’s family considered in fixing the amount of bail and release conditions for the accused
 - To reasonable and timely notice of and to be present at all public proceedings involving the criminal or delinquent conduct
 - To be notified of any pretrial disposition of the case
 - With the exception of grand jury proceedings, to be heard in any proceeding where a right of the victim is implicated, including, but not limited to, release, plea, sentencing, disposition, parole and pardon
 - To be notified of all parole procedures, to participate in the parole process, to provide information to be considered before the parole of the offender, and to be notified of the parole of the offender
 - To reasonable protection from the accused or any person acting on behalf of the accused
 - To reasonable notice of any release or escape of the accused
 - To refuse an interview, deposition or other discovery request made by the accused or any person acting on behalf of the accused
 - Full and timely restitution from the person or entity convicted for the unlawful conduct
 - Full and timely restitution as determined by the court in a juvenile delinquency proceeding

- To the prompt return of property when no longer needed as evidence
- To proceedings free from unreasonable delay and a prompt and final conclusion of the case and any related postconviction proceedings
- To confer with the attorney for the government
- To be informed of all rights enumerated in this section

The proposed amendment would allow a victim or prosecutor to ask a court to enforce these constitutional rights but would not allow a victim to become a legal party to the criminal proceeding or sue the Commonwealth or any political subdivision, such as a county or municipality, for monetary damages.

Once added to the Pennsylvania Constitution, these specific rights of victims cannot be eliminated, except by a judicial decision finding all or part of the amendment unconstitutional or the approval of a subsequent constitutional amendment. If approved, the General Assembly may pass a law to implement these new, constitutional rights, but it may not pass a law eliminating them. If approved, State and local governments will need to create new procedures to ensure that victims receive the rights provided for by the amendment.