
A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION OF THE
STATE OF HAWAII RELATING TO THE RIGHTS OF VICTIMS OF CRIME.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that victims of crime
2 should be treated with dignity, respect, and courtesy and their
3 rights should be protected throughout the criminal justice
4 process. The legislature further finds that while those accused
5 of crimes have various rights specified in article I, section 14
6 of the Constitution of the State of Hawaii, victims of crime
7 have no express constitutional protections.

8 The purpose of this Act is to propose an amendment to
9 article I of the Constitution of the State of Hawaii to provide
10 recognized and protected constitutional rights for victims of
11 crime from the time of their victimization and continuing
12 throughout the criminal justice process, to be known as "Marsy's
13 Law".

14 SECTION 2. Article I of the Constitution of the State of
15 Hawaii is amended by adding a new section to be appropriately
16 designated and to read as follows:



1 "RIGHTS OF VICTIMS OF CRIME

2 Section ____ . A victim of crime shall enjoy the following
3 rights beginning at the time of the victim's victimization and
4 continuing throughout the criminal justice process:

- 5 1. To be reasonably protected from the accused;
6 2. To reasonable, accurate and timely notice of any public
7 court proceeding, or any parole proceeding, involving the crime
8 or of any release or escape of the accused;
9 3. To not be excluded from any such public court
10 proceeding, unless the court, after receiving clear and
11 convincing evidence, determines that testimony by the victim
12 would be materially altered if the victim heard other testimony
13 at that proceeding;
14 4. To be reasonably heard at any public proceeding in a
15 court involving release, plea, or sentencing, or at any parole
16 proceeding;
17 5. To the reasonable right to confer with the attorney for
18 the State in the case;
19 6. To full and timely restitution as provided in law;
20 7. To proceedings free from unreasonable delay;



1 8. To be treated with fairness and with respect for the
2 victim's dignity and privacy;

3 9. To be informed in a timely manner of any plea bargain,
4 deferred prosecution agreement or final disposition; and

5 10. To be informed of these rights and other services
6 available for crime victims.

7 In any court proceeding involving an offense against a
8 crime victim, the court shall ensure that the crime victim is
9 afforded these rights.

10 The crime victim, or the crime victim's lawful
11 representative, and the attorney for the State may assert these
12 rights.

13 A person accused of the crime may not obtain any form of
14 relief established by this section.

15 No right in this section shall be construed to supersede
16 the constitutional rights of the offender.

17 The legislature may enact laws to further define, implement
18 and preserve the rights established by this section.

19 Nothing in this section shall be construed to create a
20 cause of action against the State or counties, or any of their
21 agencies, officials or employees.



1 As used herein, "a victim of crime", "crime victim", or
2 "victim" means any person who suffers direct, proximate or
3 threatened physical, psychological or financial harm as a result
4 of the commission or attempted commission of a crime, and shall
5 include the lawful representative of a victim who is a minor,
6 incompetent, physically or mentally incapacitated or deceased.
7 The term does not include the accused or a person whom the court
8 finds would not act in the best interests of a minor,
9 incompetent, incapacitated or deceased victim."

10 SECTION 3. The question to be printed on the ballot shall
11 be as follows:

12 "Shall victims of crime be provided rights in the
13 Constitution of the State of Hawaii, including fair and
14 respectful treatment throughout the criminal justice
15 process; notification of critical proceedings, possible
16 plea agreements and case dispositions; proceedings free
17 from unreasonable delay; the opportunity to be present at
18 public proceedings; the opportunity to speak at the
19 sentencing hearing; financial reimbursement from the
20 offender; and notification of the offender's release from
21 custody?"



1 SECTION 4. New constitutional material is underscored.

2 SECTION 5. This amendment shall take effect upon

3 compliance with article XVII, section 3, of the Constitution of

4 the State of Hawaii.



Report Title:

Constitutional Amendment; Rights of Victims of Crime

Description:

Proposes an amendment to the Hawaii State Constitution to provide victims of crime with specific rights related to the criminal justice process. (HB1144 HD1 PROPOSED)

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