
A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE I OF CONSTITUTION OF THE STATE
OF HAWAII TO ESTABLISH RIGHTS FOR VICTIMS OF CRIMES.

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

1 SECTION 1. The legislature finds that although those
2 accused of crimes have various rights specified in article I,
3 section 14, of the Constitution of the State of Hawaii, victims
4 of crime and their survivors currently have few constitutional
5 protections. The legislature further finds that victims of
6 crime, whose injuries and losses provide the justification and
7 responsibility of the State for criminal prosecution, should be
8 treated with dignity, respect, and courtesy and their rights
9 should be protected in a manner no less vigorous than those of
10 the accused.

11 The legislature additionally finds that because Hawaii is
12 one of eighteen states that do not have a victims' rights
13 constitutional amendment, it should join the other states and
14 amend its constitution to establish rights for victims of crime.
15 The legislature notes that the proposed amendment does not
16 diminish the rights of those accused or convicted. Rather, it



1 offers a better balance between the rights of victims of crime
2 and the rights of those accused or convicted.

3 The legislature therefore concludes that the Constitution
4 of the State of Hawaii should be amended to guarantee that
5 victims of crime and their surviving family members are afforded
6 specific rights relating to information pertaining to and
7 participation in the criminal justice system.

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 and their surviving family members, to be known as
12 "Marsy's Law".

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

16 "RIGHTS OF VICTIMS OF CRIME"

17 SECTION . Victims of crime or their surviving family
18 members shall have the following rights beginning at the time of
19 their victimization:



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- 1 1. To be treated with courtesy, fairness and respect for
2 their dignity and privacy throughout the criminal
3 justice process;
- 4 2. To be reasonably protected from the accused and any
5 person acting on behalf of the accused;
- 6 3. To be notified of and refuse requests for any private,
7 privileged or confidential information or records;
- 8 4. To be informed of a victim's constitutional rights,
9 available financial assistance and other services
10 available for crime victims and witnesses;
- 11 5. To a speedy trial or disposition of the case;
- 12 6. To be notified in a reasonable, accurate and timely
13 manner of all proceedings related to the criminal
14 conduct, major developments in the case and final
15 disposition of the case;
- 16 7. To be present at all proceedings related to the
17 criminal conduct unless the court determines that the
18 victim's testimony would be materially altered if the
19 victim heard other testimony at that proceeding;
- 20 8. To be given reasonable, accurate and timely notice of
21 any plea negotiation and given the opportunity to



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1 provide input to the prosecuting attorney prior to the
2 finalization of the plea agreement;

3 9. To be given reasonable, accurate and timely notice of
4 and offered the opportunity to participate and be
5 heard in any plea or sentencing of the accused or any
6 court proceeding in which a right of the victim is at
7 issue or that may result in a post-arrest release
8 decision;

9 10. To be notified in a reasonable, accurate and timely
10 manner and to be offered the opportunity to
11 participate and be heard in any process or
12 deliberation that may result in the offender's post-
13 conviction release from confinement, including any
14 type of release by the department of public safety;

15 11. To provide information regarding the impact of the
16 offender's conduct on the victim and the victim's
17 family to the individual responsible for conducting
18 any presentencing investigation or compiling any
19 presentence report, and to have any such information
20 considered in any sentencing submitted to the court;



- 1 12. To be notified in a reasonable, accurate and timely
2 manner and to be heard regarding any developments
3 relating to the release, discharge, escape or
4 commitment, or the unauthorized absence of the accused
5 or offender who was committed or involuntarily
6 hospitalized;
- 7 13. To be notified in a reasonable, accurate and timely
8 manner of the conviction, sentence, place and time of
9 incarceration or other disposition and any changes in
10 the accused's or offender's custodial status,
11 including transfer between facilities, escape,
12 furlough, work release, placement on supervised
13 release, release on parole, release on bail bond,
14 release on appeal bond, any type of release by the
15 department of public safety and final discharge at the
16 end of the prison term;
- 17 14. To have property expeditiously returned by law
18 enforcement agencies when the property is no longer
19 needed as evidence;
- 20 15. To full and timely restitution from the person or
21 person convicted; and



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1 The legislature shall have the power to enact laws to
2 further define, implement and preserve the rights established by
3 this section.

4 As used in this section:

5 "Surviving family members" means any spouse, parent,
6 grandparent, child, sibling, grandchild, guardian or any person
7 who has a relationship with the victim that is substantially
8 similar to the listed relationships.

9 "Victim" means any person who suffers direct, proximate or
10 threatened physical, psychological or financial harm as a result
11 of the commission or attempted commission of a crime or against
12 whom the crime is committed. "Victim" also includes the lawful
13 representative of a victim who is a minor, incompetent or
14 physically or mentally incapacitated. "Victim" does not include
15 the accused or a person who the court finds would not act in the
16 best interests of a deceased, incompetent, minor or
17 incapacitated victim."

18 SECTION 3. The question to be printed on the ballot shall
19 be as follows:

20 "Shall victims of crime and their surviving family members
21 be afforded rights, including courteous, fair and respectful



1 treatment throughout the criminal justice process;
 2 notification of critical proceedings, possible plea
 3 agreements and case dispositions; a speedy trial; the
 4 opportunity to be present at public proceedings; the
 5 opportunity to speak at the sentencing hearing; financial
 6 reimbursement from the offender; and notification of the
 7 offender's release from custody?"

8 SECTION 4. New constitutional material is underscored.

9 SECTION 5. This amendment shall take effect upon
 10 compliance with article XVII, section 3, of the Constitution of
 11 the State of Hawaii.

12

INTRODUCED BY:



By Request

JAN 22 2016



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Report Title:

Crime Victim Rights; Marsy's Law; Constitutional Amendment

Description:

Proposes a constitutional amendment to guarantee rights to victims of crimes and their surviving family members.

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