
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 purpose of this Act is to propose an
2 amendment to article I of the Constitution of the State of
3 Hawaii to provide recognized and protected constitutional rights
4 for victims of crime from the time of their victimization and
5 continuing throughout the criminal justice process, to be known
6 as "Marsy's Law".

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

10 "RIGHTS OF VICTIMS OF CRIME

11 SECTION . A victim of crime shall enjoy the following
12 rights at the time of the victim's victimization and continuing
13 throughout the criminal justice process:

14 1. To be reasonably protected from the accused, including
15 having the victim's safety considered in denying or



- 1 fixing the amount of bail and in setting release
2 conditions for the accused;
- 3 2. To reasonable, accurate and timely notice of all
4 proceedings related to the criminal conduct;
- 5 3. To not be excluded from any proceeding related to the
6 criminal conduct, unless the court, after receiving
7 clear and convincing evidence, determines that
8 testimony by the victim would be materially altered if
9 the victim heard other testimony at the proceeding;
- 10 4. To be reasonably heard at all proceedings related to
11 the criminal conduct;
- 12 5. To the reasonable right to confer with the attorney
13 for the State in the case or other proceeding related
14 to the criminal conduct;
- 15 6. To full and timely restitution as provided by law;
- 16 7. To proceedings free from unreasonable delay;
- 17 8. To be treated with fairness and with respect for the
18 victim's dignity and privacy;
- 19 9. To be informed in a timely manner of any plea bargain,
20 deferred prosecution agreement or final disposition,
21 and other major developments, as that term may be



1 defined by law, in proceedings related to the criminal
2 conduct; and

3 10. To be informed of these rights and of other rights and
4 services available for crime victims.

5 ENFORCEMENT

6 In any proceeding related to the criminal conduct, the
7 court shall ensure that the victim of crime is afforded these
8 rights.

9 The victim of crime, or the victim's lawful representative
10 and the attorney for the State may assert and enforce the rights
11 established by this section. Except to enforce these rights,
12 nothing in this section shall be construed to create a cause of
13 action against the State or counties, or any of their agencies,
14 officials or employees.

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

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

19 Nothing in this section shall be construed to supersede the
20 constitutional rights of a person accused of the crime.



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 by the
5 accused, and shall include the lawful representative of a victim
6 who is a minor, incompetent, physically or mentally
7 incapacitated or deceased. The term does not include the
8 accused or a person whom the court finds would not act in the
9 best interests of a minor, incompetent, incapacitated or
10 deceased victim."

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

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



1 from the offender; and notification of the offender's
2 release from custody?"

3 SECTION 4. New constitutional material is underscored.

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



Report Title:

Crime Victim Rights; Marsy's Law; Constitutional Amendment

Description:

Proposes an amendment to the Hawaii State Constitution to provide victims of crimes with specific rights related to the criminal justice process. (SB3034 HD1)

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