
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 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.

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

9 "RIGHTS OF VICTIMS OF CRIME"

10 Section ____ . To preserve and protect justice and due
11 process throughout the criminal and juvenile justice systems, a
12 victim shall have the following rights which shall be protected
13 in a manner no less vigorous than the rights afforded to the
14 accused:

15 1. To be treated with fairness and respect for the
16 victim's safety, dignity and privacy;



1 2. Upon request, to receive reasonable and timely notice
2 of, and to be present at, all public proceedings involving the
3 criminal conduct;

4 3. To be heard in any public proceeding involving release,
5 plea, sentencing, disposition, parole and any public proceeding
6 during which a right of the victim is implicated;

7 4. To reasonable protection from the accused or any person
8 acting on behalf of the accused;

9 5. Upon request, to reasonable notice of any release or
10 escape of an accused;

11 6. To refuse an interview, deposition or other discovery
12 request made by the accused or any person acting on behalf of
13 the accused;

14 7. To full and timely restitution;

15 8. To proceedings free from unreasonable delay and
16 resulting in a prompt conclusion of the case;

17 9. Upon request, to confer with the attorney for the
18 government; and

19 10. To be informed of all rights enumerated in this
20 section.



1 The victim, the victim's attorney or other lawful
2 representative or the attorney for the government, upon request
3 of the victim, may assert in any trial or appellate court, or
4 before any other authority with jurisdiction over the case and
5 may have enforced the rights enumerated in this section and any
6 other right afforded to the victim by law. The court or other
7 authority with jurisdiction shall act promptly on such a
8 request.

9 This section does not create any cause of action for
10 compensation or damages against the State, any political
11 subdivision of the State, any officer, employee or agent of the
12 State or of any of its political subdivisions or any officer or
13 employee of the court.

14 This section applies to victims of the following crimes:
15 felonies, sexual offenses and all other crimes in which a victim
16 suffers death, bodily injury, unwanted physical contact,
17 unwanted communications and violation of privacy, or the threat
18 or risk thereof. This section shall not apply to non-felony
19 crimes of theft.

20 As used in this section, a "victim" includes any person
21 against whom a crime has been committed by an adult or juvenile,



1 or who is directly and proximately harmed by the commission of
2 the crime. The term "victim" does not include the accused or a
3 person whom the court finds would not act in the best interests
4 of a deceased, incompetent, minor or incapacitated victim."

5 SECTION 3. The question to be printed on the ballot shall
6 be as follows:

7 "Shall victims of crime be provided the following rights in
8 the Constitution of the State of Hawaii:

- 9 (1) Fair and respectful treatment for the victim's safety,
10 dignity, and privacy;
- 11 (2) The opportunity for reasonable and timely notification
12 of, and opportunity to be present at, all public
13 proceedings involving the criminal conduct;
- 14 (3) The opportunity to be heard at any public proceeding
15 involving release, plea, sentencing, disposition,
16 parole, and any public proceeding during which a right
17 of the victim is implicated;
- 18 (4) Reasonable protection from the accused;
- 19 (5) The opportunity for reasonable notification of any
20 release or escape of the accused;



- 1 (6) Refusal of an interview, deposition, or other
- 2 discovery request made by the accused;
- 3 (7) Full and timely restitution;
- 4 (8) Proceedings free from unreasonable delay and prompt
- 5 conclusion of the case;
- 6 (9) The opportunity to confer with the attorney for the
- 7 government; and
- 8 (10) Information on these constitutionally protected
- 9 rights?"

10 SECTION 4. New constitutional material is underscored.

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

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INTRODUCED BY: *George Pau*

JAN 24 2019



H.B. NO. 1476

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.

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