

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Victims' Bill of Rights

**Constitutional amendment. Resolved:** Two thirds of each branch of the Legislature concurring, that the following amendment to the Constitution of Maine be proposed:

**Constitution, Art. I, §6-B** is enacted to read:

### **Section 6-B. Victims' bill of rights**

**1. Victims' rights.** To preserve and protect victims' rights to justice and due process, a victim of crime or juvenile crime has the following rights:

- A. To be treated with fairness and dignity and with respect for the victim's safety and privacy throughout the criminal justice process;
- B. To be informed, upon request, when the accused is released from custody or has escaped;
- C. To be present at and, upon request, to reasonable and timely notice of all public proceedings involving the criminal or juvenile criminal conduct;
- D. To be heard at any public proceeding involving a release, a plea or sentencing, disposition or parole and any other proceeding at which a right of the victim is implicated;
- E. To refuse an interview, deposition or other discovery request by the accused, the accused's attorney or another person acting on behalf of the accused;
- F. To confer with the prosecution regarding the rights of the victim pursuant to this section;
- G. To read presentence reports relating to the crime against the victim;
- H. To receive prompt and full restitution;
- I. To proceedings free from unreasonable delay and a prompt conclusion of the case; and
- J. To be informed of victims' constitutional rights.

**2. Victim defined.** "Victim" means a person against whom a crime or juvenile crime has been committed or a person who is directly and proximately harmed by the commission of the offense or crime. "Victim" does not include the accused or, if the victim is deceased or incapacitated or a minor, a person who the court finds would not act in the best interests of that victim.

**3. Right of victim to assert rights and have rights enforced.** The victim, the victim's attorney or another lawful representative of the victim, or, upon request of the victim, the attorney for the government, may assert in any trial or appellate court or before any other authority with jurisdiction over the case and have enforced the rights enumerated in this section and any other rights afforded by law.

**4. Remedy for and effect of exercise of rights.** The court or other authority with jurisdiction over a case to whom a request is made pursuant to subsection 3 shall act promptly on the request and shall protect the rights of the victim no less vigorously than the court or other authority protects the rights afforded to the accused and shall provide the victim a remedy, including, but not limited to, the right to appeal a sentence, but not including the dismissal of any criminal proceeding or setting aside of any conviction or sentence.

This subsection does not create a cause of action for compensation or damages against the State or a political subdivision of the State or any officer, employee or agent of the State or a political subdivision of the State, including the court or an officer or employee of the court.

**5. Other rights not impaired.** The enumeration in the Constitution of certain rights for victims may not be construed to deny or disparage others granted.

; and be it further

**Constitutional referendum procedure; form of question; effective date.**

**Resolved:** That the municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, at a statewide election held in the month of November following the passage of this resolution, to vote upon the ratification of the amendment proposed in this resolution by voting upon the following question:

"Do you favor amending the Constitution of Maine to enact a Victims' Bill of Rights, designed to ensure specific rights to the victim of a crime or juvenile crime and allow the victim to contest a sentence?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within the corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If it appears that a majority of the legal votes are cast in favor of the amendment, the Governor shall proclaim that fact without delay and the amendment becomes part of the Constitution of Maine on the date of the proclamation; and be it further

**Secretary of State shall prepare ballots. Resolved:** That the Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this resolution necessary to carry out the purposes of this referendum.

**SUMMARY**

This resolution proposes to amend the Constitution of Maine to enact a Victims' Bill of Rights, designed to ensure specific rights for victims of crime. The purpose of this resolution is to place into the Constitution of Maine various rights regarding notification of public proceedings at which the victim has a right to be heard, the right to confer with the prosecution and the right to prompt and full restitution. This resolution requires a court to grant a request by the victim to enforce the rights of the victim and to

provide a remedy for violations of the victim's rights, including the appeal of a sentence. This resolution does not provide a victim a cause of action for compensation or damages against the State or a political subdivision of the State, including the courts, or any officer, employee or agent of the State or a political subdivision of the State.