

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1033

Short Title: Victims' Rights Amendment.

(Public)

Sponsors: Representatives Grady; Brubaker, Flaherty, Jones, Russell, and Smith.

Referred to: Judiciary II.

April 19, 1991

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO ESTABLISH RIGHTS FOR VICTIMS OF CRIME.

The General Assembly of North Carolina enacts:

Section 1. Article I of the Constitution of North Carolina is amended by adding a new section to read:

"Sec. 37. Rights of victims of crime.

(1) Crime victims, and survivors and family of crime victims, as defined by law, shall have the following rights:

(a) The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.

(b) The right to timely disposition of the case following arrest of the accused, provided that nothing in this subsection shall prevent the accused from having a sufficient time to prepare a defense.

(c) The right to be reasonably protected from the accused or any persons acting on his behalf throughout the criminal justice process. The availability of the right established under this subsection shall not be a basis for any accused receiving more favorable consideration for pretrial release or lower bail than would have resulted without this subsection.

(d) The right to notification of court proceedings.

(e) The right to be given information about the crime, how the criminal justice system works, the rights of victims, and the availability of services.

- 1           (f) The right to attend trial and all other court proceedings to which the  
2           accused has the right to attend.  
3           (g) The right to confer with the prosecution.  
4           (h) The right to make a statement to the court at the time of sentencing  
5           prior to the adjudication of the sentence.  
6           (i) The right to receive restitution, in such manner as established by law,  
7           as a condition of the accused's sentence.  
8           (j) The right to information about the conviction, sentence, and release of  
9           the accused.  
10          (k) The right to notification of proposed parole or pardon of the accused,  
11          or reprieve or commutation of the accused's sentence, and the right to  
12          present evidence to the Governor or agency considering such action  
13          prior such action becoming effective, in a manner established by law.

14          (2) The General Assembly may provide that a portion of the fines or court costs  
15 assessed against convicted defendants shall be used to provide compensation for victims  
16 of crime.

17          (3) The failure or inability of any person to provide a right or service provided  
18 under this section may not be used by a defendant in a criminal case, an inmate, or any  
19 other accused as a ground for relief in any trial, for appeal, postconviction litigation,  
20 habeas corpus, or civil action. A victim or guardian, survivor or legal representative of  
21 a victim has standing to enforce the rights enumerated in this section, but does not have  
22 standing to participate as a party in a criminal proceeding or appeal."

23          Sec. 2. The amendment set out in Section 1 of this act shall be submitted to  
24 the qualified voters of the State at the general election in November 1992, which  
25 election shall be conducted under the laws then governing elections in the State. At that  
26 election, each qualified voter desiring to vote shall be provided a ballot on which shall  
27 be printed the following:

28           " FOR Constitutional amendment adding Victims' Rights Amendment.

29            AGAINST Constitutional amendment adding Victims' Rights  
30           Amendment."

31          Those qualified voters favoring the amendment set out in Section 1 of this act  
32 shall vote by making an "X" or a check mark in the square beside the statement  
33 beginning "FOR", and those qualified voters opposed to that amendment shall vote by  
34 making an "X" or a check mark in the square beside that statement beginning  
35 "AGAINST".

36          Notwithstanding the foregoing provisions of this section, voting machines  
37 may be used in accordance with rules and regulations prescribed by the State Board of  
38 Elections.

39          Sec. 3. If a majority of votes cast thereon are in favor of the amendment set  
40 out in Section 1 of this act, the State Board of Elections shall certify the amendment to  
41 the Secretary of State, who shall enroll the amendment so certified among the  
42 permanent records of his office, and the amendment becomes effective upon such  
43 certification.

44          Sec. 4. This act is effective upon ratification.