

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

1

HOUSE BILL 240

Short Title: Victims' Rights Amendment.

(Public)

---

Sponsors: Representatives Nye, Grady, and Redwine; Alphin, Arnold, Balmer, Barbee, Beall, Berry, Bowen, Bowie, Bowman, Brawley, J. Brown, Brubaker, Crawford, Creech, Culp, Cummings, Cunningham, Daughtry, Decker, DeVane, Dickson, Dockham, Edwards, Ellis, Esposito, Flaherty, Gamble, Gardner, Gottovi, Gray, Hall, Hayes, Hightower, Holmes, Howard, H. Hunter, Ives, Justus, Kuczmarski, Lemmond, Luebke, Lutz, Mavretic, McAllister, McCombs, McCrary, McLawhorn, Mercer, Miner, Mitchell, Morgan, Nichols, Oldham, C. Preston, J. Preston, Robinson, Rogers, Russell, Smith, Stamey, Stewart, Tallent, G. Thompson, R. Thompson, Warner, Weatherly, Wilkins, Wilmoth, C. Wilson, P. Wilson, Wood, and Wright.

---

Referred to: Constitutional Amendments and Referenda.

---

February 24, 1993

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO  
3 ESTABLISH RIGHTS FOR VICTIMS OF CRIME.

4 The General Assembly of North Carolina enacts:

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

7 "Sec. 37. Rights of victims of crime.

8 (1) Crime victims or their lawful representatives, including the next of kin in the  
9 case of homicide, shall have the following rights:

10 (a) The right to be treated with fairness, respect, and dignity throughout  
11 the criminal justice process.

12 (b) The right to be reasonably protected from the accused or any persons  
13 acting on the accused's behalf throughout the criminal justice process.

- 1           (c)    The right to be given information about the crime, how the criminal  
2                   justice system works, the rights of victims, and the availability of  
3                   services for victims.
- 4           (d)    The right to reasonable notification of court proceedings and notice of  
5                   pretrial release of the accused.
- 6           (e)    The right to attend trial and all other court proceedings which the  
7                   accused has a right to attend, unless there is a judicial determination to  
8                   restrict crime victims' attendance.
- 9           (f)    The right to make a sworn statement to the court, either orally or in  
10                   writing, in person or through counsel, at the time of sentencing prior to  
11                   the adjudication of the sentence.
- 12           (g)    The right to receive restitution, in such manner as established by law,  
13                   as a condition of the accused's sentence.
- 14           (h)    The right to information about the conviction or final disposition and  
15                   sentence of the accused.
- 16           (i)    The right to notification of escape, release, proposed parole or pardon  
17                   of the accused, or notice of a reprieve or commutation of the accused's  
18                   sentence.
- 19           (j)    The right to present their views and concerns to the Governor or  
20                   agency considering any action that could result in the release of the  
21                   accused, prior to such action becoming effective, in a manner  
22                   established by law.
- 23           (k)    The right to confer with a representative of the prosecution.

24       (2)    The General Assembly may provide by law for the enforcement of the rights  
25           recognized in this section. The General Assembly may also provide that a portion of the  
26           court costs assessed against convicted defendants shall be used to provide compensation  
27           for the victims of crime.

28       Nothing in this section shall be construed to create a further cause of action against  
29           the State of North Carolina, local governments, public officials, or their agents and  
30           employees, or a right to contest the disposition of any charge, or a right to court-  
31           appointed counsel to enforce any of these rights.

32       (3)    The failure or inability of any person to provide a right or service provided  
33           under this section may not be used by a defendant in a criminal case, an inmate, or any  
34           other accused as a ground for relief in any trial, appeal, post-conviction litigation,  
35           habeas corpus, civil action, or any similar criminal or civil proceeding."

36       Sec. 2. The amendment set out in Section 1 of this act shall be submitted to  
37 the qualified voters of the State at an election to be held on November 8, 1994, which  
38 election shall be conducted under the laws then governing elections in the State. At that  
39 election, each qualified voter desiring to vote shall be provided a ballot on which shall  
40 be printed the following:

- 41           "[ ]   FOR Constitutional amendment adding Victims' Rights Amendment.  
42           [ ]   AGAINST Constitutional amendment adding Victims' Rights  
43           Amendment."

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

5           Notwithstanding the foregoing provisions of the section, voting machines  
6 may be used in accordance with rules and regulations prescribed by the State Board of  
7 Elections.

8           Sec. 3. If a majority of votes cast thereon are in favor of the amendment set  
9 out in Section 1 of this act, the State Board of Elections shall certify the amendment to  
10 the Secretary of State, who shall enroll the amendment so certified among the  
11 permanent records of this office, and the amendment becomes effective upon such  
12 certification.

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