

IN THE SENATE

SENATE JOINT RESOLUTION NO. 102

BY STATE AFFAIRS COMMITTEE

A JOINT RESOLUTION

1 PROPOSING AN AMENDMENT TO SECTION 22, ARTICLE I, OF THE CONSTITUTION OF THE
2 STATE OF IDAHO, RELATING TO RIGHTS OF CRIME VICTIMS; STATING THE QUES-
3 TION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUN-
4 CIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRE-
5 TARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.
6

7 Be It Resolved by the Legislature of the State of Idaho:

8 SECTION 1. That Section 22, Article I, of the Constitution of the State
9 of Idaho be amended to read as follows:

10 SECTION 22. RIGHTS OF CRIME VICTIMS. (A) A crime victim,~~as~~
11 ~~defined by statute,~~ has the following rights:

12 (1) To be treated with fairness, respect, dignity and privacy
13 throughout the ~~criminal~~ justice process.

14 (2) To timely disposition of the case.

15 (3) To reasonable and timely prior notification of trial court, ap-
16 pellate, post-conviction and parole proceedings and, upon request,
17 to information about the sentence, incarceration, placing on pro-
18 bation, escape and release of the defendant accused.

19 (4) To be present at all criminal justice proceedings.

20 (5) To ~~communicate~~ confer with the prosecution.

21 (6) To be heard, upon request, at all criminal justice proceed-
22 ings ~~considering,~~ including the right to be heard prior to the ac-
23 ceptance of a plea of guilty, sentencing, parole, parole discharge,
24 incarceration, probation, commutation, pardon, or post-arrest and
25 post-conviction release of the defendant, unless manifest injus-
26 tice would result accused, and any proceeding during which a right
27 of the victim is implicated.

28 (7) To full and timely restitution,~~as provided by law,~~ from the
29 person committing the offense that caused the victim's loss.

30 (8) To refuse an interview, ex parte contact, or other request by
31 the ~~defendant~~ accused, or any other person acting on behalf of the
32 defendant, ~~unless such request is authorized by law~~ accused.

33 (9) To a reasonable and timely opportunity to read the presentence
34 reports relating to the crime.

35 (10) To the right to reasonable protection from the accused and
36 those acting on behalf of the accused to be considered in all trial
37 and appellate court decisions and all release decisions made by any
38 authority with jurisdiction over the case.

39 (11) To the same rights in juvenile proceedings, where the offense
40 is a felony would be a crime if committed by an adult, as guaranteed
41 in this section, provided that access to the social history report
42 shall be determined by statute.

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

9 (C) As used in this section, a "victim" shall include any person
10 or entity directly and proximately harmed by the commission of
11 a felony, or a misdemeanor involving physical injury, threatened
12 physical injury or a sexual offense, or a person or entity against
13 whom such an offense is committed and may be further expanded in
14 law.

15 (D) Nothing in this section shall be construed to authorize a
16 court to dismiss a case, to set aside or void a finding of guilt or
17 an acceptance of a plea of guilty, or to ~~obtain~~ afford a convicted
18 person appellate, habeas corpus, or other relief from any criminal
19 judgment, ~~for a violation of the provisions of this section;~~ nor
20 be construed as creating a cause of action for money damages, costs
21 or attorney fees against the state, a county, a municipality, any
22 agency, instrumentality or person; nor be construed as limiting any
23 rights for victims previously conferred by statute. This section
24 shall be self-enacting. The legislature shall have the power to
25 enact laws to ~~define,~~ further implement, preserve, and expand the
26 rights guaranteed to victims in the provisions of this section.

27 SECTION 2. The question to be submitted to the electors of the State of
28 Idaho at the next general election shall be as follows:

29 "Shall Section 22, Article I, of the Constitution of the State of Idaho
30 be amended to provide equal rights to victims of crime including the right to
31 notification of court proceedings, reasonable protection from the accused,
32 and a voice in the criminal justice process?".

33 SECTION 3. The Legislative Council is directed to prepare the state-
34 ments required by Section 67-453, Idaho Code, and file the same.

35 SECTION 4. The Secretary of State is hereby directed to publish this
36 proposed constitutional amendment and arguments as required by law.