

IN THE HOUSE OF REPRESENTATIVES

HOUSE JOINT RESOLUTION NO. 8

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. THE RESPONSIBILITY OF GOVERNMENT TO PROTECT THE  
11 RIGHTS OF CRIME VICTIMS. (A) A crime victim, as defined by statute,  
12 has the following rights:

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

15 (2) To timely disposition of the case.

16 (3) To reasonable and timely prior notification, upon request,  
17 of trial court, appellate, post-conviction, pardon, commutation  
18 and parole proceedings and, upon request, to information about the  
19 sentence, and incarceration of the accused and to reasonable and  
20 timely notification of the escape, absconsion and release of the  
21 defendant accused.

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

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

24 (6) To be heard, upon request, at all open criminal justice pro-  
25 ceedings ~~considering~~ involving a plea of ~~guilty~~, sentencing,  
26 parole, post-conviction relief, incarceration or release of the  
27 defendant, unless manifest injustice would result accused and at  
28 any open criminal justice proceeding during which a right of the  
29 victim is implicated.

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

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

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

37 (10) To reasonable protection from the accused and those acting on  
38 behalf of the accused throughout the criminal justice process.

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) The crime victim, the crime victim's attorney or other  
 2 lawful representative, or the attorney for the government upon the  
 3 government's initiative, or upon request of the crime victim, may  
 4 assert and seek enforcement of the rights enumerated in this sec-  
 5 tion and any other right afforded to the crime victim by law, which  
 6 shall be acted upon promptly.

7           (C) As used in this section, a "crime victim" is an individual  
 8 who suffers direct or threatened physical, financial or emotional  
 9 harm as the result of the commission of a crime or juvenile offense.

10          (D) Nothing in this section is intended to, or shall be inter-  
 11 preted to, supersede an accused's federal constitutional rights,  
 12 nor to afford a victim an independent right to be heard as a party  
 13 during trial.

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

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

30          "Shall Section 22, Article I, of the Constitution of the State of Idaho  
 31 be amended to provide additional rights to crime victims, including the  
 32 right to reasonable and timely notification of open criminal justice pro-  
 33 ceedings, reasonable protection from the accused, the right to be heard at  
 34 certain open criminal justice proceedings, and to provide standing to assert  
 35 their rights?".

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

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