

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1994

H

1

HOUSE BILL 72

Short Title: Victims' Rights Amendment.

(Public)

Sponsors: Representatives Grady; Flaherty, Creech, and Lemmond.

Referred to: Constitutional Amendments and Referenda.

February 10, 1994

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 or their lawful representatives, including the next of kin in the case of homicide, shall have the following rights:

- (a) The right to be treated with fairness, respect, and dignity throughout the criminal justice process.
- (b) The right to be reasonably protected from the accused or any persons acting on the accused's behalf throughout the criminal justice process.
- (c) The right to be given information about the crime, how the criminal justice system works, the rights of victims, and the availability of services for victims.
- (d) The right to reasonable notification of court proceedings and notice of pretrial release of the accused.
- (e) The right to attend trial and all other court proceedings that the accused has a right to attend, unless there is a judicial determination to restrict crime victims' attendance.
- (f) The right to make a sworn statement to the court, either orally or in writing, in person or through counsel, at the time of sentencing prior to the adjudication of the sentence.

- 1 (g) The right to receive restitution, in such manner as established by law,
2 as a condition of the accused's sentence.
- 3 (h) The right to information about the conviction or final disposition and
4 sentence of the accused.
- 5 (i) The right to notification of escape, release, proposed parole, or pardon
6 of the accused or to notice of a reprieve or commutation of the
7 accused's sentence.
- 8 (j) The right to present their views and concerns to the Governor or
9 agency considering any action that could result in the release of the
10 accused, prior to such action becoming effective, in a manner
11 established by law.
- 12 (k) The right to confer with a representative of the prosecution.

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

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

21 (3) The failure or inability of any person to provide a right or service provided
22 under this section shall not be used by a defendant in a criminal case, an inmate, or any
23 other accused as a ground for relief in any trial, appeal, postconviction litigation,
24 **habeas corpus**, civil action, or any similar criminal or civil proceeding."

25 Sec. 2. The amendment set out in Section 1 of this act shall be submitted to
26 the qualified voters of the State at an election to be held on November 8, 1994, which
27 election shall be conducted under the laws then governing elections in the State.
28 Ballots, voting systems, or both may be used in accordance with Chapter 163 of the
29 General Statutes. The question to be used in the voting systems and ballots shall be:

30 "[] FOR Constitutional amendment adding Victims' Rights Amendment.

31 [] AGAINST Constitutional amendment adding Victims' Rights
32 Amendment."

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

37 Sec. 3. If a majority of the votes cast on the question are in favor of the
38 amendment set out in Section 1 of this act, the State Board of Elections shall certify the
39 amendment to the Secretary of State. The amendment becomes effective upon this
40 certification. The Secretary of State shall enroll the amendment so certified among the
41 permanent records of that office.

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