

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 130

Short Title: Victims' Rights Amendment.

(Public)

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Sponsors: Representatives Grady; Aldridge, Allred, Arnold, Baker, Barbee, Beall, Berry, Bowie, Brawley, J. Brown, Buchanan, Cansler, Capps, Carpenter, Church, Clary, Cocklereece, Creech, Culp, Culpepper, Davis, Decker, Dickson, Dockham, Eddins, Edwards, Ellis, Esposito, Gardner, Gray, Hayes, Hiatt, Hill, Holmes, Howard, Hurley, Ives, Justus, Kiser, Lemmond, McAllister, McComas, McCombs, McCrary, McMahan, K. Miller, Miner, Mitchell, Morgan, Neely, Nichols, Nye, Oldham, Pate, Preston, Pulley, Rayfield, Redwine, Reynolds, Richardson, Robinson, Russell, Sexton, Sharpe, Sherrill, Shubert, Snowden, Tallent, Thompson, Warner, Weatherly, C. Wilson, G. Wilson, Womble, and Wood.

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Referred to: Judiciary I.

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February 8, 1995

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 be entitled to certain basic rights as defined by law, including:

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

- 1           (b) The right to be reasonably protected from the accused or any persons  
2 acting on the accused's behalf throughout the criminal justice process.  
3           (c) The right to be given information about the crime, how the criminal  
4 justice system works, the rights of victims, and the availability of  
5 services for victims.  
6           (d) The right to notification of court proceedings and notice of pretrial  
7 release of the accused.  
8           (e) The right to attend trial and all other court proceedings which the  
9 accused has a right to attend, unless there is a judicial determination to  
10 restrict crime victims' attendance.  
11           (f) The right to make a sworn statement to the court, either orally or in  
12 writing, in person or through counsel, at the time of sentencing prior to  
13 the adjudication of the sentence.  
14           (g) The right to receive restitution, in such manner as established by law.  
15           (h) The right to information about the conviction or final disposition and  
16 sentence of the accused.  
17           (i) The right to notification of escape, release, proposed parole or pardon of  
18 the accused, or notice of a reprieve or commutation of the accused's  
19 sentence.  
20           (j) The right to present their views and concerns to the Governor or agency  
21 considering any action that could result in the release of the accused,  
22 prior to such action becoming effective, in a manner established by law.  
23           (k) The right to confer with 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, habeas  
35 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 the  
37 qualified voters of the State at an election to be held on May 7, 1996, which election shall  
38 be conducted under the laws then governing elections in the State. Ballots, voting  
39 systems, or both may be used in accordance with Chapter 163 of the General Statutes.  
40 The question to be used in the voting systems and ballots shall be:

41                               **"[ ] FOR [ ] AGAINST**

42                               Constitutional amendment adding Victims' Rights Amendment, giving crime  
43 victims basic rights to participate in the justice system."

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

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