

CONSTITUTIONAL AMENDMENT

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SENATE BILL NO. 88

INTRODUCED BY

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A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE II OF THE MONTANA CONSTITUTION TO GRANT RIGHTS TO CRIME VICTIMS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Article II of The Constitution of the State of Montana is amended by adding a new section 36 that reads:

Section 36. Rights of crime victims. (1) To preserve and protect victims' rights to justice and due process, a victim of crime shall have the right:

(a) to be treated with fairness, respect, and dignity and to be free from intimidation, harassment, or abuse throughout the criminal justice process;

(b) to be informed, upon request, when an accused or convicted person is released from custody or has escaped;

(c) to be present at and, upon request, to be informed of all criminal proceedings at which the defendant has the right to be present;

(d) to be heard at a proceeding involving a postarrest release decision, a negotiated plea, or sentencing;

(e) to refuse an interview, deposition, or other discovery request by the defendant, the defendant's attorney, or other person acting on behalf of the defendant;

(f) to confer with the prosecution after the crime against the victim has been charged, before trial, or before any disposition of the case and to be informed of the disposition;

(g) to read presentence reports relating to the crime against the victim if they are available to the defendant;

(h) to receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury;

(i) to be heard at a proceeding in which a postconviction release from confinement is being

1 considered;

2 (j) to a speedy trial or disposition of the case, consistent with the defendant's right to adequate
3 time to prepare for trial;

4 (k) to have the rules that govern criminal procedure and the admissibility of evidence in criminal
5 proceedings protect the victim's rights and be subject to amendment or repeal by the legislature to ensure
6 the protection of those rights; and

7 (l) to be informed of the victim's constitutional rights.

8 (2) A victim's exercise of a right granted by this section shall not be grounds for dismissing a criminal
9 proceeding against an alleged offender or for setting aside a conviction or sentence of an offender.

10 (3) "Victim" means a person against whom a criminal offense has been committed or, if the person has
11 been killed or incapacitated, the person's spouse, parent, child, or lawful representative, unless the spouse,
12 parent, child, or lawful representative is in custody for the offense.

13 (4) The enumeration in this constitution of certain rights for victims shall not be construed to deny or
14 disparage other rights granted by the legislature or retained by victims.

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16 NEW SECTION. **Section 2. Submission to electorate.** This amendment shall be submitted to the
17 qualified electors of Montana at the general election to be held in November 1996 by printing on the ballot
18 the full title of this act and the following:

19 [] FOR granting rights to crime victims.

20 [] AGAINST granting rights to crime victims.

21

-END-