

PROPOSED AMENDMENT TO THE CONSTITUTION OF PENNSYLVANIA

This notice contains information about a question that will be on the ballot in the Municipal Election to be held on November 5, 2019.

The ballot question proposes an amendment to the Constitution of Pennsylvania, based on a joint resolution of the General Assembly of Pennsylvania.

If this ballot question is approved by a majority of the people voting on it, the amendment will become law.

The General Assembly of Pennsylvania first proposed the amendment during the 2018 session and approved it for a second time during the 2019 session of the legislature, as required by Article XI, Section 1 of the Constitution.

This public notice is part of the process of amending the Constitution of Pennsylvania. The Secretary of the Commonwealth is required to publish:

- A copy of the joint resolution proposing the amendment.
- The text of the question that will be on the ballot.
- A "Plain English Statement" prepared by the Office of Attorney General explaining the purpose, limitations and effects of the ballot question upon the people of this Commonwealth.

Text that appears in **bold print** are the changes to the words of the Constitution that are proposed by the General Assembly. If the amendment is approved, the words underlined would be added to the Constitution.

If you need help reading this advertisement or need the text of the proposed amendment in an alternative format, call or write the Pennsylvania Department of State, Bureau of Election Services and Notaries, Room 210 North Office Building, Harrisburg, PA 17120, (717) 787-5280, ra-BCEL@pa.gov.

Kathy Boockvar, Acting Secretary of the Commonwealth

JOINT RESOLUTION NO. 2019-1

Proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, providing for rights of victims of crime.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of Pennsylvania is proposed in accordance with Article XI:

That Article I be amended by adding a section to read:

§ 9.1. Rights of victims of crime.

(a) To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, as further provided and as defined by the General Assembly, which shall be protected in a manner no less vigorous than the rights afforded to the accused: to be treated with fairness and respect for the victim's safety, dignity and privacy; to have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the accused; to reasonable and timely notice of and to be present at all public proceedings involving the criminal or delinquent conduct; to be notified of any pretrial disposition of the case; with the exception of grand jury proceedings, to be heard in any proceeding where a right of the victim is implicated, including, but not limited to, release, plea, sentencing, disposition, parole and pardon; to be notified of all parole procedures, to participate in the parole process, to provide information to be considered before the parole of the offender, and to be notified of the parole of the offender; to reasonable protection from the accused or any person acting on behalf of the accused; to reasonable notice of any release or escape of the accused; to refuse an interview, deposition or other discovery request made by the accused or any person acting on behalf of the accused; full and timely restitution from the person or entity convicted for the unlawful conduct; full and timely restitution as determined by the court in a juvenile delinquency proceeding; to the prompt return of property when no longer needed as evidence; to proceedings free from unreasonable delay and a prompt and final conclusion of the case and any related postconviction proceedings; to confer with the attorney for the government; and to be informed of all rights enumerated in this section.

(b) The victim or the attorney for the government upon request of the victim may assert in any trial or appellate court, or before any other authority, with jurisdiction over the case, and have enforced, the rights enumerated in this section and any other right afforded to the victim by law. This section does not grant the victim party status or create any cause of action for compensation or damages against the Commonwealth or any political subdivision, nor any officer, employee or agent of the Commonwealth or any political subdivision, or any officer or employee of the court.

(c) As used in this section and as further defined by the General Assembly, the term "victim" includes any person against whom the criminal offense or delinquent act is committed or who is directly harmed by the commission of the offense or act. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor or incapacitated victim.

Section 2. (a) Upon the first passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment.

(b) Upon the second passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed

immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment. The Secretary of the Commonwealth shall submit this proposed constitutional amendment to the qualified electors of this Commonwealth at the first primary, general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.

PROPOSED CONSTITUTIONAL AMENDMENT

CRIME VICTIM RIGHTS

Ballot Question

Shall the Pennsylvania Constitution be amended to grant certain rights to crime victims, including to be treated with fairness, respect and dignity; considering their safety in bail proceedings; timely notice and opportunity to take part in public proceedings; reasonable protection from the accused; right to refuse discovery requests made by the accused; restitution and return of property; proceedings free from delay; and to be informed of these rights, so they can enforce them?

Plain English Statement of the Office of Attorney General

The proposed amendment, if approved by the electorate, will add a new section to Article I of the Pennsylvania Constitution. That amendment will provide victims of crimes with certain, new constitutional rights that must be protected in the same way as the rights afforded to individuals accused of committing a crime.

The proposed amendment defines "victim" as both a person against whom the criminal act was committed and any person who was directly harmed by it. The accused or any person a court decides is not acting in the best interest of a victim cannot be a victim.

Generally, the proposed amendment would grant victims the constitutional right to receive notice and be present and speak at public proceedings involving the alleged criminal conduct. It would also grant victims the constitutional right to receive notice of any escape or release of the accused and the right to have their safety and the safety of their family considered in setting the amount of bail and other release conditions. It would also create several other new constitutional rights, such as the right to timely restitution and return of property, the right to refuse to answer questions asked by the accused, and the right to speak with a government attorney.

Specifically, the proposed amendment would establish the following new rights for victims:

- To be treated with fairness and respect for the victim's safety, dignity and privacy
- To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the accused
- To reasonable and timely notice of and to be present at all public proceedings involving the criminal or delinquent conduct
- To be notified of any pretrial disposition of the case
- With the exception of grand jury proceedings, to be heard in any proceeding where a right of the victim is implicated, including, but not limited to, release, plea, sentencing, disposition, parole and pardon
- To be notified of all parole procedures, to participate in the parole process, to provide information to be considered before the parole of the offender, and to be notified of the parole of the offender
- To reasonable protection from the accused or any person acting on behalf of the accused
- To reasonable notice of any release or escape of the accused
- To refuse an interview, deposition or other discovery request made by the accused or any person acting on behalf of the accused
- Full and timely restitution from the person or entity convicted for the unlawful conduct
- Full and timely restitution as determined by the court in a juvenile delinquency proceeding
- To the prompt return of property when no longer needed as evidence
- To proceedings free from unreasonable delay and a prompt and final conclusion of the case and any related postconviction proceedings
- To confer with the attorney for the government
- To be informed of all rights enumerated in this section

The proposed amendment would allow a victim or prosecutor to ask a court to enforce these constitutional rights but would not allow a victim to become a legal party to the criminal proceeding or sue the Commonwealth or any political subdivision, such as a county or municipality, for monetary damages.

Once added to the Pennsylvania Constitution, these specific rights of victims cannot be eliminated, except by a judicial decision finding all or part of the amendment unconstitutional or the approval of a subsequent constitutional amendment. If approved, the General Assembly may pass a law to implement these new, constitutional rights, but it may not pass a law eliminating them. If approved, State and local governments will need to create new procedures to ensure that victims receive the rights provided for by the amendment.

PROPUESTA PARA LA ENMIENDA CONSTITUCIONAL

DERECHOS DE LAS VICTIMAS DE CRIMENES

Pregunta para la papeleta electoral

¿Debería enmendarse la Constitución de Pennsylvania para otorgar ciertos derechos a las víctimas del crimen, lo que incluye ser tratadas con justicia, respeto y dignidad; considerar su seguridad en los procedimientos de fianza; notificar y tener oportunidad de tomar parte en procedimientos públicos; tener protección razonable del acusado; derecho a rechazar solicitudes de descubrimiento realizadas por el acusado; restitución y devolución de propiedad; que no haya demoras en los procedimientos y estar informado de estos derechos para que puedan exigir su cumplimiento?

Declaración en lenguaje simple de la Oficina del Fiscal General

La enmienda propuesta, si es aprobada por el electorado, agregará una nueva sección al Artículo I de la Constitución de Pennsylvania. La enmienda brindará a las víctimas de crímenes ciertos derechos constitucionales nuevos que deben ser protegidos de la misma manera que los derechos otorgados a las personas acusadas de cometer un crimen.

La enmienda propuesta define como "víctima" tanto a una persona contra la cual se cometió el acto criminal como la persona que resultó directamente dañada por dicho acto. El acusado, o cualquier persona que una corte decida que no actúa en el mejor interés de la víctima, no puede ser una víctima.

Por lo general, la enmienda propuesta otorgará a las víctimas el derecho constitucional de recibir aviso y estar presentes y hablar en procedimientos públicos que involucren la supuesta conducta criminal. También otorgará a las víctimas el derecho constitucional de recibir aviso de cualquier escape o liberación del acusado y el derecho de que se considere su seguridad y la seguridad de su familia al considerar el monto de la fianza y otras condiciones de liberación. También se crearán otros nuevos derechos constitucionales tales como el derecho a la restitución y devolución de propiedad, el derecho a rehusarse a responder preguntas realizadas por el acusado y el derecho de hablar con un abogado del gobierno.

Específicamente, la enmienda propuesta establecería los siguientes nuevos derechos para las víctimas:

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- *Ser tratadas con justicia y respeto por la seguridad, dignidad y privacidad de las víctimas.*
 - *Que se considere la seguridad de la víctima y que la familia de la víctima sea considerada al fijar el monto de la fianza y las condiciones de liberación para el acusado.*
 - *Brindar aviso razonable y a tiempo y poder estar presente en todos los procedimientos públicos que involucren conducta criminal o delincuente.*
 - *Ser notificadas de cualquier disposición del caso previa al juicio.*
 - *Con la excepción de los procedimientos ante el gran jurado, ser escuchadas en cualquier procedimiento que implique un derecho de la víctima, incluyendo entre otros, liberación, declaración, sentencia, disposición, libertad condicional e indulto.*
 - *Ser notificadas de todos los procedimientos de libertad condicional, participar en el proceso de libertad condicional, brindar información para ser considerada antes de otorgar libertad condicional al delincuente, y ser notificadas de la libertad condicional del delincuente.*
 - *Tener protección razonable del acusado o de cualquier persona que actúe en nombre del acusado.*
 - *Ser notificadas de cualquier liberación o escape del acusado.*
 - *Rehusarse a una entrevista, declaración u otra solicitud de descubrimiento realizada por el acusado o por cualquier persona que actúa en nombre del acusado.*

- *Restitución a tiempo y completa de la persona o entidad condenada por la conducta ilícita.*
 - *Restitución a tiempo y completa según lo determine la corte en un procedimiento de delincuencia juvenil.*
 - *Devolución a tiempo de la propiedad que ya no se necesita como evidencia.*
 - *Que los procedimientos no tengan demoras no razonables y que tengan una conclusión pronta y definitiva del caso y cualquier procedimiento posterior a la condena.*
 - *Consultar con el abogado del gobierno.*
 - *Ser informadas de todos los derechos enumerados en esta sección.*
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La enmienda propuesta permitirá a la víctima o fiscal pedir a la corte que haga cumplir estos derechos constitucionales pero no permitirá que la víctima sea parte legal en el procedimiento penal o que demande al Commonwealth o a cualquier subdivisión política, tales como un condado o municipalidad por daños monetarios.

Una vez que se agreguen a la Constitución de Pennsylvania, estos derechos específicos de las víctimas no pueden eliminarse, excepto mediante una decisión judicial que concluya que la totalidad o parte de la enmienda es inconstitucional o que se apruebe una enmienda constitucional subsiguiente. Si se aprueba, la Asamblea General podrá pasar una ley para implementar estos derechos constitucionales nuevos, pero no podrá pasar una ley para eliminarlos. Si se aprueba, los gobiernos locales y estatales necesitarán crear nuevos procedimientos para asegurar que las víctimas reciben los derechos provistos por la enmienda.

PAGADO CON LOS FONDOS DE LOS CONTRIBUYENTES DE PENNSYLVANIA. ESTE ANUNCIO ES PAGADO TOTALMENTE POR EL FONDO GENERAL.