

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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SENATE BILL 140

Short Title: Amendment/Victims' Rights.

(Public)

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Sponsors: Senators Warren; Kincaid, Forrester, Smith, Gunter, Harris, Johnson, Perdue, Conder, Hoyle, Codington, Odom, Walker, Albertson, Plexico, Shaw, Carpenter, Simpson, Gulley, Richardson, Martin of Pitt, Blackmon, Ward, Lee, Sands, and Allran.

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Referred to: Courts.

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February 15, 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 which the accused has a right to attend, unless there is a judicial determination to restrict crime victims' attendance.

1       (f) The right to make a sworn statement to the court, either orally or in writing,  
2 in person or through counsel, at the time of sentencing prior to the adjudication of the  
3 sentence.

4       (g) The right to receive restitution, in such manner as established by law, as a  
5 condition of the accused's sentence.

6       (h) The right to information about the conviction or final disposition and  
7 sentence of the accused.

8       (i) The right to notification of escape, release, proposed parole or pardon of the  
9 accused, or notice of a reprieve or commutation of the accused's sentence.

10       (j) The right to present their views and concerns to the Governor or agency  
11 considering any action that could result in the release of the accused, prior to such  
12 action becoming effective, in a manner established by law.

13       (k) The right to confer with a representative of the prosecution.

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

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

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

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

31           " FOR constitutional amendment adding Victims' Rights Amendment.

32            AGAINST constitutional amendment adding Victims' Rights  
33           Amendment."

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

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

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