

By: Representatives Shanks, Cockerham,
Newman

To: Constitution

HOUSE CONCURRENT RESOLUTION NO. 35

1 A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO THE
2 MISSISSIPPI CONSTITUTION OF 1890, TO PROVIDE CERTAIN RIGHTS TO
3 VICTIMS THROUGHOUT THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF
5 MISSISSIPPI, That the following amendment to the Mississippi
6 Constitution of 1890 is proposed to the qualified electors of the
7 state:

8 Amend the Mississippi Constitution of 1890 by creating a new
9 section to read as follows:

10 "Section _____. (1) The following words and phrases shall
11 have the meanings as defined in this section unless the context
12 clearly indicates otherwise:

13 (a) "Victim" means any person against whom the criminal
14 offense or delinquent act is committed or who is directly harmed
15 by the commission of the offense or act. The term "victim" does
16 not include the accused or a person whom the court finds would not
17 act in the best interests of a deceased, incompetent, minor, or
18 incapacitated victim.



19 (b) "Criminal offense" means conduct that gives a law
20 enforcement officer or a prosecutor probable cause to believe that
21 a person has committed either (i) a felony, or (ii) any
22 misdemeanor involving physical injury or the threat of physical
23 injury, a sexual offense, any offense involving spousal or
24 domestic abuse, or any offense against a child.

25 (2) To preserve and protect justice and due process for
26 victims throughout the criminal and juvenile justice systems, a
27 victim shall have the following rights that shall be protected in
28 a manner no less vigorous than the rights afforded to the accused:

29 (a) To be treated with fairness and respect for the
30 victim's safety, dignity, and privacy;

31 (b) Upon request, to reasonable and timely notice of
32 and to be present at all public proceedings involving the accused
33 or the accused's delinquent conduct;

34 (c) To be heard in any public proceeding involving the
35 accused's bail or other release or the entry of a plea,
36 sentencing, or restitution proceeding, or any parole proceeding or
37 hearing;

38 (d) To reasonable protection from the accused or any
39 person acting on behalf of the accused;

40 (e) Upon request, to reasonable notice of any release
41 or escape of the accused;



42 (f) To refuse an interview, deposition, or other
43 discovery request made by the accused or any person acting on
44 behalf of the accused;

45 (g) To full and timely restitution;

46 (h) To proceedings that are free from unreasonable
47 delay and a prompt conclusion of the case;

48 (i) Upon request, to reasonably confer with the
49 attorney for the government; and

50 (j) To be informed of all rights enumerated in this
51 section.

52 (3) The victim, the victim's attorney or other lawful
53 representative, or the attorney for the government upon request of
54 the victim, may assert in any trial or appellate court, or before
55 any other authority, with jurisdiction over the case, and have
56 enforced, the rights enumerated in this section and any other
57 right afforded to the victim by law.

58 The court or other authority with jurisdiction shall act
59 promptly on such a request. Nothing in this section shall afford
60 the victim party status, or be construed as altering the
61 presumption of innocence in the criminal justice system.

62 The rights of the victim in this section do not include the
63 authority to direct the prosecution of the case or to obtain
64 confidential juvenile records.

65 This section does not create any cause of action for
66 compensation or damages against the state, any political



67 subdivision of the state, any officer, employee, or agent of the
68 state or of any of its political subdivisions, or any officer or
69 employee of the court.

70 Law enforcement officers who become victims of crime in the
71 course of performing their public duties are entitled to same
72 rights as other victims of crime; however, their identity and the
73 circumstances of the crime may continue to be disclosed as
74 otherwise required by law.

75 (4) This section, being capable of protection without
76 denying the constitutional rights of the accused, is not intended
77 and may not be interpreted to supersede a defendant's federal
78 constitutional rights."

79 BE IT FURTHER RESOLVED, That this proposed amendment shall be
80 submitted by the Secretary of State to the qualified electors at
81 an election to be held on the first Tuesday after the first Monday
82 of November 2020, as provided by Section 273 of the Constitution
83 and by general law.

84 BE IT FURTHER RESOLVED, That the explanation of this proposed
85 amendment for the ballot shall read as follows: "This proposed
86 constitutional amendment provides certain rights for victims
87 throughout the criminal and juvenile justice systems."

