

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 551
Committee Substitute Favorable 4/26/17
PROPOSED SENATE COMMITTEE SUBSTITUTE H551-PCS40784-TTy-52

Short Title: Strengthening Victims' Rights.

(Public)

Sponsors:

Referred to:

April 5, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO PROVIDE
3 BETTER PROTECTIONS AND SAFEGUARDS TO VICTIMS OF CRIME.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Section 37 of Article I of the North Carolina Constitution reads as
6 rewritten:

7 "Sec. 37. Rights of victims of crime.

8 (1) Basic rights. Victims of ~~crime, as prescribed by law,~~ crime or acts of delinquency
9 shall be treated with dignity and respect by the criminal justice system.

10 (1a) Enumerated rights. When the crime or act of delinquency is one against or involving
11 the person of the victim or is equivalent to a felony property crime, the victim is entitled to the
12 following ~~basic~~ rights:

13 (a) ~~The right as prescribed by law to be informed of and to be present at upon~~
14 request to reasonable, accurate, and timely notice of court proceedings of the
15 accused.

16 (a1) The right upon request to be present at court proceedings of the accused.

17 (b) ~~The right to be reasonably heard at sentencing of the accused in a manner~~
18 ~~prescribed by law, and at other times as prescribed by law or deemed~~
19 ~~appropriate by the court.~~ any court proceeding involving the plea, conviction,
20 adjudication, sentencing, or release of the accused.

21 (c) ~~The right as prescribed by law to receive restitution.~~ restitution in a reasonably
22 timely manner, when ordered by the court.

23 (d) ~~The right as prescribed by law to be given information about the crime, crime~~
24 ~~or act of delinquency, how the criminal justice system works, the rights of~~
25 ~~victims, and the availability of services for victims.~~

26 (e) ~~The right as prescribed by law upon request to receive information about the~~
27 ~~conviction conviction, adjudication, or final disposition and sentence of the~~
28 ~~accused.~~

29 (f) ~~The right as prescribed by law upon request to receive notification of escape,~~
30 ~~release, proposed parole or pardon of the accused, or notice of a reprieve or~~
31 ~~commutation of the accused's sentence.~~

32 (g) ~~The right as prescribed by law to present their~~ the victim's views and concerns
33 to the Governor or agency considering any action that could result in the
34 release of the accused, prior to such action becoming effective.

35 (h) ~~The right as prescribed by law to~~ reasonably confer with the prosecution.



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1 (1b) Enforcement of rights. Except as otherwise provided herein, the General
2 Assembly shall further provide, by general law, the procedure whereby a victim may assert the
3 rights provided in this section. The victim or, if the victim is a minor, is legally incapacitated, or
4 deceased, a family member, guardian, or legal custodian may assert the rights provided in this
5 section. The procedure shall be by motion to the court of jurisdiction within the same criminal or
6 juvenile proceeding giving rise to the rights. The victim, family member, guardian, or legal
7 custodian have the right to counsel at this hearing but do not have the right to counsel provided
8 by the State. If the matter involves an allegation that the district attorney failed to comply with
9 the rights of a victim when obligated to so do by law, the victim must first afford the district
10 attorney with jurisdiction over the criminal action an opportunity to resolve any issue in a timely
11 manner.

12 (2) No money damages; other ~~enforcement claims~~. Nothing in this section shall be
13 construed as creating a claim for money ~~damages~~ damages, or any cause of action, against the
14 State, a county, a municipality, or any of the agencies, instrumentalities, or officers and
15 employees thereof. The General Assembly may provide for other remedies to ensure adequate
16 enforcement of this section.

17 (3) No ground for relief in criminal case. The failure or inability of any person to provide
18 a right or service provided under this section may not be used by a defendant in a criminal case,
19 an inmate, or any other accused as a ground for relief in any trial, appeal, postconviction
20 litigation, habeas corpus, civil action, or any similar criminal or civil proceeding. Nothing in this
21 section shall be construed to provide grounds for a victim (i) to appeal any decision made in a
22 criminal or juvenile proceeding; (ii) to challenge any verdict, sentence, or adjudication; (iii) to
23 participate as a party in any proceeding; or (iv) to obtain confidential juvenile records.

24 (4) No restriction of authority. Nothing in this section shall be construed to restrict the
25 power of the district attorney, or the inherent authority of the court.

26 (5) Implementation. The General Assembly may prescribe general laws to further define
27 and implement this section."

28 **SECTION 2.** The amendment set out in Section 1 of this act shall be submitted to
29 the qualified voters of the State at the election in November 2018, which election shall be
30 conducted under the laws then governing elections in the State. Ballots, voting systems, or both,
31 may be used in accordance with Chapter 163A of the General Statutes. The question to be used
32 in the voting systems and ballots shall be:

33 " FOR AGAINST

34 Constitutional amendment to strengthen protections for victims of crime; to establish
35 certain absolute basic rights for victims; and to ensure the enforcement of these rights."

36 **SECTION 3.** If a majority of the votes cast on the question are in favor of the
37 amendment set out in Section 1 of this act, the State Board of Elections shall certify the
38 amendment to the Secretary of State, who shall enroll the amendment so certified among the
39 permanent records of that office. The amendment becomes effective August 31, 2019.

40 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
41 law.