

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 595

Short Title: Strengthening Victims' Rights. (Public)

Sponsors: Senators Barringer, B. Jackson, Daniel (Primary Sponsors); Alexander, Krawiec, Newton, Rabin, and Sanderson.

Referred to: Rules and Operations of the Senate

April 5, 2017

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

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 shall be entitled to the
9 following basic rights:

- 10 (a) ~~The right as prescribed by law to be informed of and to be present at court~~
11 right, upon request, to reasonable and timely notice of, and to be present at,
12 criminal and juvenile proceedings of the accused.
- 13 (b) ~~The right to be heard at sentencing or disposition of the accused in a manner~~
14 prescribed by law, and at other times as prescribed by law or deemed
15 appropriate by the court. ~~any proceeding involving release, plea, or parole~~
16 and during which a right of the victim is implicated.
- 17 (c) ~~The right as prescribed by law to receive restitution.~~ full and timely
18 restitution from the defendant.
- 19 (d) ~~The right as prescribed by law to be given information about the crime, how~~
20 ~~the criminal justice system works, the rights of victims, and the availability~~
21 ~~of services for victims.~~
- 22 (e) ~~The right as prescribed by law to receive information about the conviction or~~
23 ~~final disposition and sentence of the accused.~~
- 24 (f) ~~The right as prescribed by law~~ right, upon request, to receive notification of
25 escape, release, proposed parole or pardon of the accused, or notice of a
26 reprieve or commutation of the accused's sentence.
- 27 (g) ~~The right as prescribed by law to present their views and concerns to the~~
28 ~~Governor or agency considering any action that could result in the release of~~
29 ~~the accused, prior to such action becoming effective.~~
- 30 (h) ~~The right as prescribed by law to confer with the prosecution.~~
- 31 (i) The right to reasonable protection from the accused or anyone acting at the
32 direction of the accused.
- 33 (j) The right to proceedings free from unreasonable delay and a prompt
34 conclusion of the case.



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1 (k) The right to be treated with fairness and respect for the victim's dignity and
2 privacy.

3 (1a) The victim, the victim's next of kin, the victim's attorney or other lawful
4 representative, or the attorney for the government, upon request of the victim, may assert and
5 seek enforcement of the rights enumerated in this section and any other right afforded to the
6 victim by law in any trial or appellate court, or before any other authority, with jurisdiction
7 over the case. The court or other authority with jurisdiction shall act promptly on such a
8 request. The victim does not have a party status. The court shall not appoint an attorney for the
9 victim under this section. Nothing in this section shall be construed to alter the powers and
10 responsibilities of the District Attorney.

11 (1b) As used in this section, a "victim" includes any person directly and proximately
12 harmed by the commission of a felony, sexual offense, domestic criminal trespass, stalking
13 offense, offense involving a violation of a protective order, or any offense in which assault or
14 threats are an element, or a person against whom such an offense is committed. The term
15 "victim" does not include the accused or a person whom the court finds would not act in the
16 best interests of a deceased, incompetent, minor, or incapacitated victim.

17 (2) No money ~~damages; other enforcement damages.~~ Nothing in this section shall be
18 construed as creating a claim for money damages against the State, a county, a municipality, or
19 any of the agencies, instrumentalities, officers, or employees thereof. ~~The General Assembly~~
20 ~~may provide for other remedies to ensure adequate enforcement of this section.~~

21 (3) No ground for relief in criminal case. The failure or inability of any person to
22 provide a right or service provided under this section may not be used by a defendant in a
23 criminal case, an inmate, or any other accused as a ground for relief in any trial, appeal,
24 postconviction litigation, habeas corpus, civil action, or any similar criminal or civil
25 proceeding."

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

31 " FOR AGAINST

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

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

39 **SECTION 4.** This act becomes effective January 1, 2019.