

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 551
PROPOSED COMMITTEE SUBSTITUTE H551-PCS10342-TT-22

Short Title: Strengthening Victims' Rights.

(Public)

Sponsors:

Referred to:

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 and delinquent acts shall
9 be entitled to the following basic rights:

- 10 (a) ~~The right as prescribed by law to be informed of and to be present at court~~
11 ~~proceedings of the accused,~~right, upon request, to reasonable and timely
12 notice of all criminal and juvenile proceedings.
- 13 (b) ~~The right to be heard at sentencing of the accused in a manner prescribed by~~
14 ~~law, and at other times as prescribed by law or deemed appropriate by the~~
15 ~~court,~~present at criminal and juvenile proceedings of the defendant.
- 16 (b1) The right to be heard, when the victim is present, at any proceeding
17 involving a plea, sentencing, parole, release of the defendant, and any
18 proceeding in which the victim's rights are implicated, except for the
19 defendant's initial appearance.
- 20 (c) ~~The right as prescribed by law to receive restitution,~~full and timely
21 restitution from the defendant.
- 22 (d) ~~The right as prescribed by law to be given information about the crime, how~~
23 ~~the criminal justice system works, the rights of victims, and the availability~~
24 ~~of services for victims.~~
- 25 (e) ~~The right as prescribed by law to receive information about the conviction or~~
26 ~~final disposition and sentence of the accused.~~
- 27 (f) ~~The right as prescribed by law,~~right, upon request, to receive notification of
28 escape, release, proposed parole or pardon of the accused,defendant, or
29 notice of a reprieve or commutation of the accused'sthe defendant's sentence.
- 30 (g) ~~The right as prescribed by law to present their views and concerns to the~~
31 ~~Governor or agency considering any action that could result in the release of~~
32 ~~the accused,~~defendant, prior to such action becoming effective.
- 33 (h) ~~The right as prescribed by law to confer with the prosecution.~~
- 34 (i) The right to be reasonably protected from the defendant.
- 35 (j) The right to proceedings free from unreasonable delay and a prompt
36 conclusion to 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. Nothing in this section shall affect the State's discovery obligations.

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 a request. If
8 the matter involves an allegation that the District Attorney failed to comply with the rights of a
9 victim when obligated to so do by law, the victim must first afford the District Attorney with
10 jurisdiction over the criminal action an opportunity to resolve any issue in a timely manner. The
11 victim does not have party status. The court shall not appoint an attorney for the victim under
12 this section. Nothing in this section shall be construed to alter the powers and responsibilities of
13 the District Attorney.

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

20 (1c) Nothing in this section shall be construed to authorize a collateral civil cause of
21 action.

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

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

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

36 " FOR AGAINST

37 Constitutional amendment to strengthen protections for victims of crime, to
38 establish certain, absolute basic rights for victims, and to ensure the enforcement of these
39 rights."

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

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