

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1372

H.P. 958

House of Representatives, March 17, 2005

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Victims' Bill of Rights

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MILLETT of Waterford.
Cosponsored by Senator HASTINGS of Oxford and
Representative: HANLEY of Paris, Senator: SNOWE-MELLO of Androscoggin.

2 **Constitutional amendment. Resolved:** Two thirds of each
branch of the Legislature concurring, that the following
amendment to the Constitution of Maine be proposed:

4 **Constitution, Art. I, §6-B** is enacted to read:

6 **Section 6-B. Victims' bill of rights**

8 **1. Victims' rights.** To preserve and protect victims'
10 rights to justice and due process, a victim of crime has a right:

12 A. To be treated with fairness, respect and dignity and to
14 be free from intimidation, harassment and abuse throughout
the criminal justice process;

16 B. To be informed, upon request, when the accused or
18 convicted person is released from custody or has escaped;

20 C. To be present at and, upon request, to be informed of
22 all criminal proceedings at which the defendant has the
24 right to be present;

26 D. To be heard at any proceeding involving a post-arrest
28 release decision, a negotiated plea or sentencing;

30 E. To refuse an interview, deposition or other discovery
32 request by the defendant, the defendant's attorney or other
34 person acting on behalf of the defendant;

36 F. To confer with the prosecution after the crime against
38 the victim has been charged, before trial or before any
40 disposition of the case and to be informed of the
42 disposition;

44 G. To read presentence reports relating to the crime
46 against the victim when they are available to the defendant;

48 H. To receive prompt restitution from the person or persons
50 convicted of the criminal conduct that caused the victim's
52 loss or injury;

I. To be heard at any proceeding when any post-conviction
release of the defendant from confinement is being
considered;

J. To a speedy trial of the defendant or disposition and
prompt and final conclusion of the case after the conviction
and sentence;

K. To have all rules governing criminal procedure and the
admissibility of evidence in all criminal proceedings
protect victims' rights and to have these rules be subject

2 to amendment or repeal by the Legislature to ensure the
3 protection of these rights; and

4 L. To be informed of victims' constitutional rights.

6 2. Not grounds for dismissal. A victim's exercise of any
7 right granted by this section may not be grounds for dismissing
8 any criminal proceeding or setting aside any conviction or
9 sentence.

10 3. Victim defined. "Victim" means a person against whom a
11 criminal offense has been committed or, if the person is killed
12 or incapacitated, the person's spouse, parent, child or other
13 lawful representative, unless the spouse, parent, child or other
14 lawful representative is in custody for an offense or is the
15 accused.

16 4. Legislative authority. The Legislature, and the people
17 by initiative or referendum, have the authority to enact
18 substantive and procedural laws to define, implement, preserve
19 and protect the rights guaranteed to victims by this section,
20 including the authority to extend any of these rights to juvenile
21 proceedings.

22 5. Other rights not impaired. The enumeration in the
23 Constitution of certain rights for victims may not be construed
24 to deny or disparage others granted.

25 ; and be it further

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31 **Constitutional referendum procedure; form of question; effective**
32 **date. Resolved:** That the municipal officers of this State shall
33 notify the inhabitants of their respective cities, towns and
34 plantations to meet, in the manner prescribed by law for holding
35 a statewide election, at a statewide election, on the Tuesday
36 following the first Monday of November following the passage of
37 this resolution, to vote upon the ratification of the amendment
38 proposed in this resolution by voting upon the following question:

39 "Do you favor amending the Constitution of Maine to enact a
40 Victims' Bill of Rights, designed to ensure specific rights
41 to victims of crime?"

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43 The legal voters of each city, town and plantation shall
44 vote by ballot on this question and designate their choice by a
45 cross or check mark placed within the corresponding square below
46 the word "Yes" or "No." The ballots must be received, sorted,
47 counted and declared in open ward, town and plantation meetings
48 and returns made to the Secretary of State in the same manner as
49 votes for members of the Legislature. The Governor shall review
50 the returns and, if it appears that a majority of the legal votes
51 are cast in favor of the amendment, the Governor shall proclaim

2 that fact without delay and the amendment becomes part of the
Constitution of Maine on the date of the proclamation; and be it
further

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6 **Secretary of State shall prepare ballots. Resolved:** That the
Secretary of State shall prepare and furnish to each city, town
and plantation all ballots, returns and copies of this resolution
8 necessary to carry out the purposes of this referendum.

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SUMMARY

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This resolution proposes to amend the Constitution of Maine
to enact a Victims' Bill of Rights, designed to ensure specific
14 rights for victims of crime.