

Calendar No. 455

105TH CONGRESS
2D SESSION

S. J. RES. 44

Proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

IN THE SENATE OF THE UNITED STATES

APRIL 1, 1998

Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. BIDEN, Mr. LOTT, Mr. THURMOND, Mr. TORRICELLI, Mr. BREAUX, Mr. GRASSLEY, Mr. DEWINE, Mr. FORD, Mr. REID, Mr. GRAMM, Mr. MACK, Ms. LANDRIEU, Mr. CLELAND, Mr. COVERDELL, Mr. CRAIG, Mr. INOUE, Mr. BRYAN, Ms. SNOWE, Mr. THOMAS, Mr. WARNER, Mr. LIEBERMAN, Mr. ALLARD, Mrs. HUTCHISON, Mr. D'AMATO, Mr. SHELBY, Mr. CAMPBELL, Mr. COATS, Mr. FAIRCLOTH, Mr. FRIST, Mr. SMITH of New Hampshire, Mr. GREGG, Mr. HAGEL, Mr. HELMS, Mr. SMITH of Oregon, Mr. HUTCHINSON, Mr. INHOFE, Mr. MURKOWSKI, Mr. BOND, Mr. GRAMS, and Mr. WYDEN) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

JULY 7, 1998

Reported by Mr. HATCH, with an amendment

[Strike out all after the resolving clause and insert the part printed in *italic*]

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*

1 *(two-thirds of each House concurring therein), That the fol-*
 2 *lowing article is proposed as an amendment to the Con-*
 3 *stitution of the United States, which shall be valid for all*
 4 *intents and purposes as part of the Constitution when*
 5 *ratified by the legislatures of three-fourths of the several*
 6 *States within seven years from the date of its submission*
 7 *by the Congress:*

8 “ARTICLE —

9 “SECTION 1. Each victim of a crime of violence shall
 10 have the rights to reasonable notice of, and not to be ex-
 11 cluded from, all public proceedings relating to the crime—

12 “to be heard, if present, and to submit a state-
 13 ment at all public proceedings to determine a release
 14 from custody, an acceptance of a negotiated plea, or
 15 a sentence;

16 “to the foregoing rights at a parole proceeding
 17 that is not public, to the extent those rights are af-
 18 forded to the convicted offender;

19 “to reasonable notice of a release or escape
 20 from custody relating to the crime;

21 “to consideration for the interest of the victim
 22 in a trial free from unreasonable delay;

23 “to an order of restitution from the convicted
 24 offender;

1 “to consideration for the safety of the victim in
2 determining any release from custody; and

3 “to reasonable notice of the rights established
4 by this article.

5 “SECTION 2: Only the victim or the victim’s rep-
6 resentative shall have standing to assert the rights estab-
7 lished by this article. Nothing in this article shall provide
8 grounds for the victim to challenge a charging decision
9 or a conviction; to overturn a sentence or negotiated plea;
10 to obtain a stay of trial; or to compel a new trial. Nothing
11 in this article shall give rise to a claim for damages against
12 the United States, a State, a political subdivision, or a
13 public official.

14 “SECTION 3: The Congress and the States shall have
15 the power to implement and enforce this article within
16 their respective jurisdictions by appropriate legislation, in-
17 cluding the power to enact exceptions when necessary to
18 achieve a compelling interest.

19 “SECTION 4: The rights established by this article
20 shall apply to all proceedings that begin on or after the
21 180th day after the ratification of this article.

22 “SECTION 5: The rights established by this article
23 shall apply in all Federal and State proceedings, including
24 military proceedings to the extent that Congress may pro-
25 vide by law, juvenile justice proceedings, and proceedings

1 in any district or territory of the United States not within
 2 a State.”.

3 *That the following article is proposed as an amendment to*
 4 *the Constitution of the United States, which shall be valid*
 5 *for all intents and purposes as part of the Constitution*
 6 *when ratified by the legislatures of three-fourths of the sev-*
 7 *eral States within seven years from the date of its submis-*
 8 *sion by the Congress:*

9 “ARTICLE —

10 “SECTION 1. *A victim of a crime of violence, as these*
 11 *terms may be defined by law, shall have the rights:*

12 “*to reasonable notice of, and not to be excluded*
 13 *from, any public proceedings relating to the crime;*

14 “*to be heard, if present, and to submit a state-*
 15 *ment at all such proceedings to determine a condi-*
 16 *tional release from custody, an acceptance of a nego-*
 17 *tiated plea, or a sentence;*

18 “*to the foregoing rights at a parole proceeding*
 19 *that is not public, to the extent those rights are af-*
 20 *forded to the convicted offender;*

21 “*to reasonable notice of a release or escape from*
 22 *custody relating to the crime;*

23 “*to consideration of the interest of the victim*
 24 *that any trial be free from unreasonable delay;*

1 *“to an order of restitution from the convicted of-*
2 *fender;*

3 *“to consideration for the safety of the victim in*
4 *determining any conditional release from custody re-*
5 *lating to the crime; and*

6 *“to reasonable notice of the rights established by*
7 *this article.*

8 *“SECTION 2. Only the victim or the victim’s lawful*
9 *representative shall have standing to assert the rights estab-*
10 *lished by this article. Nothing in this article shall provide*
11 *grounds to stay or continue any trial, reopen any proceed-*
12 *ing or invalidate any ruling, except with respect to condi-*
13 *tional release or restitution or to provide rights guaranteed*
14 *by this article in future proceedings, without staying or*
15 *continuing a trial. Nothing in this article shall give rise*
16 *to or authorize the creation of a claim for damages against*
17 *the United States, a State, a political subdivision, or a pub-*
18 *lic officer or employee.*

19 *“SECTION 3. The Congress shall have the power to en-*
20 *force this article by appropriate legislation. Exceptions to*
21 *the rights established by this article may be created only*
22 *when necessary to achieve a compelling interest.*

23 *“SECTION 4. This article shall take effect on the 180th*
24 *day after the ratification of this article. The right to an*
25 *order of restitution established by this article shall not*

1 *apply to crimes committed before the effective date of this*
2 *article.*

3 “SECTION 5. *The rights and immunities established by*
4 *this article shall apply in Federal and State proceedings,*
5 *including military proceedings to the extent that the Con-*
6 *gress may provide by law, juvenile justice proceedings, and*
7 *proceedings in the District of Columbia and any common-*
8 *wealth, territory or possession of the United States.’’.*

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