

NEWS RELEASE

ARIZONA SUPREME COURT

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Voters Added a Victims' Bill of Rights to the Arizona Constitution 25 Years Ago

PHOENIX – Twenty-five years ago, Arizona's Victims' Bill of Rights became part of the Arizona Constitution. On November 6, 1990, Arizona voters were asked to vote yes or no on Proposition 104, "An initiative measure proposing an amendment to the Constitution of Arizona relating to victims' rights" as spelled out in the ballot measure. The measure passed by a 15 percent margin with 57 percent of Arizona voters in favor of adding specific rights for crime victims to the state Constitution.

Arizona was the sixth state to pass a constitutional amendment that spells out the rights of crime victims. Article 2, § 2.1 of the Arizona Constitution begins by stating that victims have "rights to justice and due process."

The complete text of the Constitutional amendment, as it stands today, reads:

Section 2.1. (A) To preserve and protect victims' rights to justice and due process, a victim of crime has a right:

- 1. To be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process.*
- 2. To be informed, upon request, when the accused or convicted person is released from custody or has escaped.*
- 3. To be present at and, upon request, to be informed of all criminal proceedings where the defendant has the right to be present.*
- 4. To be heard at any proceeding involving a post-arrest release decision, a negotiated plea, and sentencing.*
- 5. To refuse an interview, deposition, or other discovery request by the defendant, the defendant's attorney, or other person acting on behalf of the defendant.*
- 6. To confer with the prosecution, after the crime against the victim has been charged, before trial or before any disposition of the case and to be informed of the disposition.*
- 7. To read pre-sentence reports relating to the crime against the victim when they are available to the defendant.*
- 8. To receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury.*

9. *To be heard at any proceeding when any post-conviction release from confinement is being considered.*
10. *To a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence.*
11. *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 to amendment or repeal by the legislature to ensure the protection of these rights.*
12. *To be informed of victims' constitutional rights.*

(B) A victim's exercise of any right granted by this section shall not be grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.

(C) "Victim" means a person against whom the criminal offense has been committed or, if the person is killed or incapacitated, the person's spouse, parent, child or other lawful representative, except if the person is in custody for an offense or is the accused.

(D) The legislature, or the people by initiative or referendum, have the authority to enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings.

(E) The enumeration in the constitution of certain rights for victims shall not be construed to deny or disparage others granted by the legislature or retained by victims.

“Until the Victims’ Bill of Rights was enacted, crime victims did not have the right to confer with prosecutors on plea agreement offers, be heard as to release or sentencing decisions, or even to be present at all times during trials,” Judge Ron Reinstein, who chairs the Supreme Court’s Commission on Victims in the Courts, said. “These basic, fundamental rights have provided victims a voice in cases that have a direct impact on their lives. Judges need to hear how crimes have impacted victims and their families. It improves the criminal justice system when victims and their families can be present in court during all stages of the process. Balancing the rights of victims with the rights of defendants has greatly improved Arizona’s system of justice.”

“Before voters passed this measure, crime victims were relegated to the sidelines and were largely ignored as the defendant’s case moved forward,” said Steve Twist, who authored the measure that was eventually on the ballot as Proposition 104. “Although case law is still developing on the issue of victims’ rights, victims of crime in Arizona have, as I’ve previously written, reclaimed their place and their voice in the criminal justice system.”

Steve Twist is founder and board member of Arizona Voice for Crime Victims. He is Vice President and General Counsel for Services Group of America, Inc. and currently serves as an adjunct professor at the ASU Sandra Day O’Connor College of Law. Twist was a charter member of the Supreme Court’s Commission on Victims in the Courts. He serves on numerous boards and committees aimed at advancing justice and protecting the rights of crime victims.

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