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REVISION 1

A proposal to revise the State Constitution by the Constitution  
Revision Commission of Florida.

A proposed revision relating to crime victims and  
judges; amending Section 16 of Article I of the State  
Constitution to revise and establish additional rights  
of victims of crime; amending Section 8 of Article V  
and creating a new section in Article XII of the State  
Constitution to increase the age after which a justice  
or judge may no longer serve in a judicial office; and  
creating Section 21 of Article V of the State  
Constitution to require a state court or an officer  
hearing an administrative action to interpret a state  
statute or rule de novo in litigation between an  
administrative agency and a private party.

Be It Proposed by the Constitution Revision Commission of  
Florida:

Section 16 of Article I of the State Constitution is  
amended to read:

ARTICLE I

DECLARATION OF RIGHTS

SECTION 16. Rights of accused and of victims.—

(a) In all criminal prosecutions the accused shall, upon  
demand, be informed of the nature and cause of the accusation,  
and shall be furnished a copy of the charges, and shall have the

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30 right to have compulsory process for witnesses, to confront at  
31 trial adverse witnesses, to be heard in person, by counsel or  
32 both, and to have a speedy and public trial by impartial jury in  
33 the county where the crime was committed. If the county is not  
34 known, the indictment or information may charge venue in two or  
35 more counties conjunctively and proof that the crime was  
36 committed in that area shall be sufficient; but before pleading  
37 the accused may elect in which of those counties the trial will  
38 take place. Venue for prosecution of crimes committed beyond the  
39 boundaries of the state shall be fixed by law.

40 (b) To preserve and protect the right of crime victims to  
41 achieve justice, ensure a meaningful role throughout the  
42 criminal and juvenile justice systems for crime victims, and  
43 ensure that crime victims' rights and interests are respected  
44 and protected by law in a manner no less vigorous than  
45 protections afforded to criminal defendants and juvenile  
46 delinquents, every victim is entitled to the following rights,  
47 beginning at the time of his or her victimization:

48 (1) The right to due process and to be treated with  
49 fairness and respect for the victim's dignity.

50 (2) The right to be free from intimidation, harassment, and  
51 abuse.

52 (3) The right, within the judicial process, to be  
53 reasonably protected from the accused and any person acting on  
54 behalf of the accused. However, nothing contained herein is  
55 intended to create a special relationship between the crime  
56 victim and any law enforcement agency or office absent a special  
57 relationship or duty as defined by Florida law.

58 (4) The right to have the safety and welfare of the victim

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59 and the victim's family considered when setting bail, including  
60 setting pretrial release conditions that protect the safety and  
61 welfare of the victim and the victim's family.

62 (5) The right to prevent the disclosure of information or  
63 records that could be used to locate or harass the victim or the  
64 victim's family, or which could disclose confidential or  
65 privileged information of the victim.

66 (6) A victim shall have the following specific rights upon  
67 request:

68 a. The right to reasonable, accurate, and timely notice of,  
69 and to be present at, all public proceedings involving the  
70 criminal conduct, including, but not limited to, trial, plea,  
71 sentencing, or adjudication, even if the victim will be a  
72 witness at the proceeding, notwithstanding any rule to the  
73 contrary. A victim shall also be provided reasonable, accurate,  
74 and timely notice of any release or escape of the defendant or  
75 delinquent, and any proceeding during which a right of the  
76 victim is implicated.

77 b. The right to be heard in any public proceeding involving  
78 pretrial or other release from any form of legal constraint,  
79 plea, sentencing, adjudication, or parole, and any proceeding  
80 during which a right of the victim is implicated.

81 c. The right to confer with the prosecuting attorney  
82 concerning any plea agreements, participation in pretrial  
83 diversion programs, release, restitution, sentencing, or any  
84 other disposition of the case.

85 d. The right to provide information regarding the impact of  
86 the offender's conduct on the victim and the victim's family to  
87 the individual responsible for conducting any presentence

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88 investigation or compiling any presentence investigation report,  
89 and to have any such information considered in any sentencing  
90 recommendations submitted to the court.

91 e. The right to receive a copy of any presentence report,  
92 and any other report or record relevant to the exercise of a  
93 victim's right, except for such portions made confidential or  
94 exempt by law.

95 f. The right to be informed of the conviction, sentence,  
96 adjudication, place and time of incarceration, or other  
97 disposition of the convicted offender, any scheduled release  
98 date of the offender, and the release of or the escape of the  
99 offender from custody.

100 g. The right to be informed of all postconviction processes  
101 and procedures, to participate in such processes and procedures,  
102 to provide information to the release authority to be considered  
103 before any release decision is made, and to be notified of any  
104 release decision regarding the offender. The parole or early  
105 release authority shall extend the right to be heard to any  
106 person harmed by the offender.

107 h. The right to be informed of clemency and expungement  
108 procedures, to provide information to the governor, the court,  
109 any clemency board, and other authority in these procedures, and  
110 to have that information considered before a clemency or  
111 expungement decision is made; and to be notified of such  
112 decision in advance of any release of the offender.

113 (7) The rights of the victim, as provided in subparagraph  
114 (6)a., subparagraph (6)b., or subparagraph (6)c., that apply to  
115 any first appearance proceeding are satisfied by a reasonable  
116 attempt by the appropriate agency to notify the victim and

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117 convey the victim's views to the court.

118 (8) The right to the prompt return of the victim's property  
119 when no longer needed as evidence in the case.

120 (9) The right to full and timely restitution in every case  
121 and from each convicted offender for all losses suffered, both  
122 directly and indirectly, by the victim as a result of the  
123 criminal conduct.

124 (10) The right to proceedings free from unreasonable delay,  
125 and to a prompt and final conclusion of the case and any related  
126 postjudgment proceedings.

127 a. The state attorney may file a good faith demand for a  
128 speedy trial and the trial court shall hold a calendar call,  
129 with notice, within fifteen days of the filing demand, to  
130 schedule a trial to commence on a date at least five days but no  
131 more than sixty days after the date of the calendar call unless  
132 the trial judge enters an order with specific findings of fact  
133 justifying a trial date more than sixty days after the calendar  
134 call.

135 b. All state-level appeals and collateral attacks on any  
136 judgment must be complete within two years from the date of  
137 appeal in non-capital cases and within five years from the date  
138 of appeal in capital cases, unless a court enters an order with  
139 specific findings as to why the court was unable to comply with  
140 this subparagraph and the circumstances causing the delay. Each  
141 year, the chief judge of any district court of appeal or the  
142 chief justice of the supreme court shall report on a case-by-  
143 case basis to the speaker of the house of representatives and  
144 the president of the senate all cases where the court entered an  
145 order regarding inability to comply with this subparagraph. The

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146 legislature may enact legislation to implement this  
147 subparagraph.

148 (11) The right to be informed of these rights, and to be  
149 informed that victims can seek the advice of an attorney with  
150 respect to their rights. This information shall be made  
151 available to the general public and provided to all crime  
152 victims in the form of a card or by other means intended to  
153 effectively advise the victim of their rights under this  
154 section.

155 (c) The victim, the retained attorney of the victim, a  
156 lawful representative of the victim, or the office of the state  
157 attorney upon request of the victim, may assert and seek  
158 enforcement of the rights enumerated in this section and any  
159 other right afforded to a victim by law in any trial or  
160 appellate court, or before any other authority with jurisdiction  
161 over the case, as a matter of right. The court or other  
162 authority with jurisdiction shall act promptly on such a  
163 request, affording a remedy by due course of law for the  
164 violation of any right. The reasons for any decision regarding  
165 the disposition of a victim's right shall be clearly stated on  
166 the record.

167 (d) The granting of the rights enumerated in this section  
168 to victims may not be construed to deny or impair any other  
169 rights possessed by victims. The provisions of this section  
170 apply throughout criminal and juvenile justice processes, are  
171 self-executing, and do not require implementing legislation.  
172 This section may not be construed to create any cause of action  
173 for damages against the state or a political subdivision of the  
174 state, or any officer, employee, or agent of the state or its

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175 political subdivisions.

176 (e) As used in this section, a "victim" is a person who  
177 suffers direct or threatened physical, psychological, or  
178 financial harm as a result of the commission or attempted  
179 commission of a crime or delinquent act or against whom the  
180 crime or delinquent act is committed. The term "victim" includes  
181 the victim's lawful representative, the parent or guardian of a  
182 minor, or the next of kin of a homicide victim, except upon a  
183 showing that the interest of such individual would be in actual  
184 or potential conflict with the interests of the victim. The term  
185 "victim" does not include the accused. The terms "crime" and  
186 "criminal" include delinquent acts and conduct ~~Victims of crime~~  
187 ~~or their lawful representatives, including the next of kin of~~  
188 ~~homicide victims, are entitled to the right to be informed, to~~  
189 ~~be present, and to be heard when relevant, at all crucial stages~~  
190 ~~of criminal proceedings, to the extent that these rights do not~~  
191 ~~interfere with the constitutional rights of the accused.~~

192  
193 Section 8 of Article V of the State Constitution is  
194 amended, and section 21 is added to that article, to read:

195 ARTICLE V

196 JUDICIARY

197 SECTION 8. Eligibility.—No person shall be eligible for  
198 office of justice or judge of any court unless the person is an  
199 elector of the state and resides in the territorial jurisdiction  
200 of the court. No justice or judge shall serve after attaining  
201 the age of seventy-five ~~seventy~~ years except upon temporary  
202 assignment ~~or to complete a term, one-half of which has been~~  
203 ~~served~~. No person is eligible for the office of justice of the

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204 supreme court or judge of a district court of appeal unless the  
205 person is, and has been for the preceding ten years, a member of  
206 the bar of Florida. No person is eligible for the office of  
207 circuit judge unless the person is, and has been for the  
208 preceding five years, a member of the bar of Florida. Unless  
209 otherwise provided by general law, no person is eligible for the  
210 office of county court judge unless the person is, and has been  
211 for the preceding five years, a member of the bar of Florida.  
212 Unless otherwise provided by general law, a person shall be  
213 eligible for election or appointment to the office of county  
214 court judge in a county having a population of 40,000 or less if  
215 the person is a member in good standing of the bar of Florida.

216 SECTION 21. Judicial interpretation of statutes and rules.-  
217 In interpreting a state statute or rule, a state court or an  
218 officer hearing an administrative action pursuant to general law  
219 may not defer to an administrative agency's interpretation of  
220 such statute or rule, and must instead interpret such statute or  
221 rule de novo.

222  
223 A new section is added to Article XII of the State  
224 Constitution to read:

225 ARTICLE XII

226 SCHEDULE

227 Eligibility of justices and judges.-The amendment to  
228 Section 8 of Article V, which increases the age at which a  
229 justice or judge is no longer eligible to serve in judicial  
230 office except upon temporary assignment, shall take effect July  
231 1, 2019.

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233 BE IT FURTHER PROPOSED that the following statement be placed on  
234 the ballot:

235

236 CONSTITUTIONAL AMENDMENT

237 ARTICLE I, SECTION 16

238 ARTICLE V, SECTIONS 8, 21

239 ARTICLE XII, NEW SECTION

240 RIGHTS OF CRIME VICTIMS; JUDGES.—Creates constitutional  
241 rights for victims of crime; requires courts to facilitate  
242 victims' rights; authorizes victims to enforce their rights  
243 throughout criminal and juvenile justice processes. Requires  
244 judges and hearing officers to independently interpret statutes  
245 and rules rather than deferring to government agency's  
246 interpretation. Raises mandatory retirement age of state  
247 justices and judges from seventy to seventy-five years; deletes  
248 authorization to complete judicial term if one-half of term has  
249 been served by retirement age.