



## CONSTITUTION REVISION COMMISSION

### Summary of Proposed Constitutional Revision

#### **Revision 1 (P 6001) – Rights of Crime Victims; Judges**

*By Style and Drafting Committee; (CO-INTRODUCERS) Carlos Beruff; Pam Bondi; Lisa Carlton; Timothy Cerio; Don Gaetz; Emery Gainey; Anna Marie Hernandez Gamez; Tom Grady; Brecht Heuchan; Darlene Jordan; Fred Karlinsky; Belinda Keiser; Roberto Martinez; Jeanette Nuñez; Darryl Rouson; William “Bill” Schifino, Jr.; Chris Smith; Jacqui Thurlow-Lippisch*

Revision 1 establishes additional constitutional rights of crime victims throughout the criminal and juvenile justice system. Victims entitled to the rights established by the revision include any person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act, or against whom such act is committed. Generally, this class of persons also includes the victim’s lawful representative, the parent or guardian of a minor, or the next of kin of a homicide victim.

The constitutional rights established by this revision duplicate many of the rights currently provided under the Victim Rights Act, a legislative enactment, and the following additional constitutional rights of crime victims are created:

- The right to due process.
- The right to be free from intimidation, harassment, and abuse.
- The right, within the judicial process, to be reasonably protected from the accused and persons acting on behalf of the accused.
- The right to prevent the disclosure of certain information related to the victim.
- The right to the prompt return of the victim’s property when no longer needed as evidence in the case.
- The right to full and timely restitution in each case and from each convicted offender.
- The right to proceedings free from unreasonable delay, which includes the specific right to have all appeals and collateral attacks on any judgment complete within 2 years in non-capital cases and within five years in capital cases.
- The right to be informed, to be heard, to be present, and to participate in public proceedings involving the criminal conduct, post-conviction proceedings involving the criminal conduct, as well as clemency and expungement procedures involving the criminal conduct if so requested by the victim.
- The right to confer with the prosecuting attorney concerning any plea agreement or other disposition of the case if so requested by the victim.
- The right to be informed of the constitutional rights of victims of crime.

The rights of crime victims established by this revision are required to be protected by law in a manner no less vigorous than rights of the accused. Currently, constitutional rights of crime victims are subordinate to the constitutional rights of the accused to the extent that they would interfere with such rights.

Revision 1 also revises eligibility requirements of justices and judges and establishes additional duties of judicial officers. Specifically, the revision:

- Raises the mandatory retirement age of state justices and judges from seventy years of age to seventy-five years of age. The revision also removes the authorization for a justice or judge to continue serving in office upon reaching the mandatory retirement age if such justice or judge is completing a judicial term, one-half of which has already been served. The revised mandatory retirement requirements take effect July 1, 2019.
- Requires any state court or administrative law judge to interpret a state statute or rule independent of an agency's interpretation in litigation between a private party and an administrative agency. Currently, state courts and administrative judges generally grant substantial deference to an agency's interpretation of a statute it is charged with enforcing. This revision eliminates such deference and requires the court to examine and determine, on their own, whether specific interpretations by the agency comply with the statute or rule in question.

If approved by the voters, Revision 1 takes effect January 8, 2019, except where otherwise indicated.

*Vote: 34-3*