



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0082/1
MPG:kjf

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE JOINT RESOLUTION 53**

June 13, 2017 - Offered by Senator WANGGAARD.

1 ***To renumber and amend*** section 9m of article I; and ***to create*** section 9m (1) of
2 article I, section 9m (4) of article I, section 9m (5) of article I and section 9m (6)
3 of article I of the constitution; **relating to:** the rights of crime victims (first
4 consideration).

Analysis by the Legislative Reference Bureau

This constitutional amendment, proposed to the 2017 legislature on first consideration, provides the following rights to victims of crime in this state:

1. To be treated with dignity, respect, courtesy, sensitivity, and fairness.
2. To privacy.
3. To proceedings free from unreasonable delay.
4. To timely disposition of the case, free from unreasonable delay.
5. To be present at all proceedings involving the case.
6. To reasonable protection from the accused throughout the criminal justice process.
7. To reasonable and timely notification of proceedings.
8. To confer with the attorney for the government.
9. To be heard in any proceeding during which a right of the victim is implicated.

10. To have information submitted to and considered by the authority with jurisdiction over the case pertaining to the economic, physical, and psychological effect of the crime or juvenile offense upon the victim.

11. To timely notice of any release, escape, or death of the accused.

12. To refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused.

13. To full restitution and to be provided with assistance collecting restitution.

14. To have any moneys or property collected from a person who has been ordered to make restitution to the victim be applied first to restitution of the victim before being applied to any amounts owed by that person to the government.

15. To compensation, as provided by law.

16. To timely information about the outcome of the case.

17. To timely notice about all rights granted under this constitutional amendment and all other rights, privileges, or protections of the victim provided by law, including how such rights, privileges, or protections are enforced.

Currently, the constitution requires the state to ensure that crime victims be afforded certain privileges and protections, as provided by law, some of which are similar to some of the rights enumerated above.

The constitutional amendment also authorizes the victim to enforce his or her rights in court, and the attorney for the government in the case involving the victim may seek enforcement of the victim's rights upon request of the victim. The court or other authority with jurisdiction over the case must act promptly with respect to such an action and must afford a remedy for the violation of the victim's rights.

A constitutional amendment requires adoption by two successive legislatures, and ratification by the people, before it can become effective.

1 ***Resolved by the senate, the assembly concurring, That:***

2 **SECTION 1.** Section 9m of article I of the constitution is renumbered section 9m.

3 (2) (intro.) of article I and amended to read:

4 [Article I] Section 9m (2) (intro.) ~~This state shall treat crime victims, as defined~~

5 ~~by law, with fairness, dignity and respect for their privacy. This state shall ensure~~

6 ~~that crime victims have all of the following privileges and protections as provided by~~

7 ~~law: In order to preserve and protect victims' rights to justice and due process~~

8 ~~throughout the criminal justice process, victims shall be entitled to all of the~~

9 ~~following rights, which shall vest at the time of victimization and be protected by law~~

10 ~~in a manner no less vigorous than the protections afforded to the accused:~~

- 1 (a) To be treated with dignity, respect, courtesy, sensitivity, and fairness.
- 2 (b) To privacy.
- 3 (c) To proceedings free from unreasonable delay.
- 4 (d) To timely disposition of the case; the opportunity to attend court, free from
5 unreasonable delay.
- 6 (e) To be present at all times at all proceedings unless the trial court finds
7 sequestration is necessary to a fair trial for the defendant; involving the case.
- 8 (f) To reasonable protection from the accused throughout the criminal justice
9 process;.
- 10 (g) Upon request, to reasonable and timely notification of court proceedings;
11 the opportunity to.
- 12 (h) Upon request, to confer with the prosecution; the opportunity to make a
13 statement to the court at disposition; attorney for the government.
- 14 (i) Upon request, to be heard in any proceeding during which a right of the
15 victim is implicated, including release, plea, sentencing, disposition, parole,
16 revocation, expungement, or pardon.
- 17 (j) To have information submitted to the authority with jurisdiction over the
18 case pertaining to the economic, physical, and psychological effect of the crime or
19 juvenile offense upon the victim and to have that information considered by that
20 authority.
- 21 (k) Upon request, to timely notice of any release or escape of the accused or
22 death of the accused if the accused is in custody or on supervision at the time of death.
- 23 (L) To refuse an interview, deposition, or other discovery request made by the
24 accused or any person acting on behalf of the accused.
- 25 (m) To full restitution; and to be provided with assistance collecting restitution.

1 (n) To have any moneys or property collected from a person who has been
2 ordered to make restitution to the victim be applied first to restitution of the victim
3 before being applied to any amounts owed by that person to the government.

4 (o) To compensation; and as provided by law.

5 (p) To timely information about the outcome of the case and the release of the
6 accused.

7 (q) To timely notice about all rights under this section and all other rights,
8 privileges, or protections of the victim provided by law, including how such rights,
9 privileges, or protections are enforced.

10 (3) Except as provided under sub. (2) (o), all provisions of this section are
11 self-executing. The legislature shall may provide remedies for the violation further
12 procedures for compliance with and enforcement of this section. Nothing in this
13 section, or in any statute enacted pursuant to this section, shall limit any right of the
14 accused which may be provided by law.

15 **SECTION 2.** Section 9m (1) of article I of the constitution is created to read:

16 [Article I] Section 9m (1) (a) In this section, notwithstanding any statutory
17 right, privilege, or protection, “victim” means all of the following:

18 1. A person against whom an act is committed that would constitute a crime
19 if committed by a competent adult.

20 2. If the person under subd. 1. is deceased, incompetent, a minor, or
21 incapacitated, the person’s spouse, parent or legal guardian, child, person with
22 whom the person against whom the act was committed resided, or other lawful
23 representative, unless the spouse, parent, child, person, or other lawful
24 representative is in custody for a criminal offense.

1 (b) "Victim" does not include the accused or a person who the court finds would
2 not act in the best interests of a victim who is deceased, incompetent, a minor, or
3 incapacitated.

4 **SECTION 3.** Section 9m (4) of article I of the constitution is created to read:

5 [Article I] Section 9m (4) (a) In addition to any other available enforcement of
6 rights or remedy for a violation of this section or of other rights, privileges, or
7 protections provided by law, the victim, the victim's attorney or other lawful
8 representative, or the attorney for the government upon request of the victim may
9 assert and seek in any trial court or before any other authority of competent
10 jurisdiction, enforcement of the rights in this section and any other right, privilege,
11 or protection afforded to the victim by law. The court or other authority with
12 jurisdiction over the case shall act promptly on such a request and afford a remedy
13 for the violation of any right of the victim. The court or other authority with
14 jurisdiction over the case shall clearly state on the record the reasons for any decision
15 regarding the disposition of a victim's right and shall provide those reasons to the
16 victim or the victim's attorney or other lawful representative.

17 (b) The victim may obtain review of any adverse decision concerning his or her
18 rights as a victim by a court or other authority with jurisdiction under par. (a) in the
19 appropriate district of the court of appeals and the supreme court.

20 **SECTION 4.** Section 9m (5) of article I of the constitution is created to read:

21 [Article I] Section 9m (5) This section does not create any cause of action for
22 damages against the state; any political subdivision of the state; any officer,
23 employee, or agent of the state or a political subdivision of the state acting in his or
24 her official capacity; or any officer, employee, or agent of the courts acting in his or
25 her official capacity.

