



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1168

S.P. 389

In Senate, March 23, 2017

**RESOLUTION, Proposing an Amendment to the Constitution of
Maine To Establish a Victims' Bill of Rights**

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by President THIBODEAU of Waldo.
Cosponsored by Representative HERBIG of Belfast and
Senators: CUSHING of Penobscot, JACKSON of Aroostook, MASON of Androscoggin,
Representatives: FREDETTE of Newport, Speaker GIDEON of Freeport, GOLDEN of
Lewiston, RILEY of Jay.

1 **Constitutional amendment. Resolved:** Two thirds of each branch of the
2 Legislature concurring, that the following amendment to the Constitution of Maine be
3 proposed:

4 **Constitution, Art. I, §6-B** is enacted to read:

5 **Section 6-B. Victims' bill of rights**

6 **1. Victims' rights.** To preserve and protect victims' rights to justice and due
7 process, a victim of crime or juvenile crime has the following rights:

8 A. To be treated with fairness and dignity and with respect for the victim's safety and
9 privacy throughout the criminal justice process;

10 B. To be informed, upon request, when the accused is released from custody or has
11 escaped;

12 C. To be present at and, upon request, to reasonable and timely notice of all public
13 proceedings involving the criminal or juvenile criminal conduct;

14 D. To be heard at any public proceeding involving a release, a plea or sentencing,
15 disposition or parole and any other proceeding at which a right of the victim is
16 implicated;

17 E. To refuse an interview, deposition or other discovery request by the accused, the
18 accused's attorney or another person acting on behalf of the accused;

19 F. To confer with the prosecution regarding the rights of the victim pursuant to this
20 section;

21 G. To read presentence reports relating to the crime against the victim;

22 H. To receive prompt and full restitution;

23 I. To proceedings free from unreasonable delay and a prompt conclusion of the case;
24 and

25 J. To be informed of victims' constitutional rights.

26 **2. Victim defined.** "Victim" means a person against whom a crime or juvenile
27 crime has been committed or a person who is directly and proximately harmed by the
28 commission of the offense or crime. "Victim" does not include the accused or, if the
29 victim is deceased or incapacitated or a minor, a person who the court finds would not act
30 in the best interests of that victim.

31 **3. Right of victim to assert rights and have rights enforced.** The victim, the
32 victim's attorney or another lawful representative of the victim, or, upon request of the
33 victim, the attorney for the government, may assert in any trial or appellate court or
34 before any other authority with jurisdiction over the case and have enforced the rights
35 enumerated in this section and any other rights afforded by law.

36 **4. Remedy for and effect of exercise of rights.** The court or other authority with
37 jurisdiction over a case to whom a request is made pursuant to subsection 3 shall act

1 promptly on the request and shall protect the rights of the victim no less vigorously than
2 the court or other authority protects the rights afforded to the accused and shall provide
3 the victim a remedy, including, but not limited to, the right to appeal a sentence, but not
4 including the dismissal of any criminal proceeding or setting aside of any conviction or
5 sentence.

6 This subsection does not create a cause of action for compensation or damages against the
7 State or a political subdivision of the State or any officer, employee or agent of the State
8 or a political subdivision of the State, including the court or an officer or employee of the
9 court.

10 **5. Other rights not impaired.** The enumeration in the Constitution of certain rights
11 for victims may not be construed to deny or disparage others granted.

12 ; and be it further

13 **Constitutional referendum procedure; form of question; effective date.**

14 **Resolved:** That the municipal officers of this State shall notify the inhabitants of their
15 respective cities, towns and plantations to meet, in the manner prescribed by law for
16 holding a statewide election, at a statewide election held in the month of November
17 following the passage of this resolution, to vote upon the ratification of the amendment
18 proposed in this resolution by voting upon the following question:

19 "Do you favor amending the Constitution of Maine to enact a Victims'
20 Bill of Rights, designed to ensure specific rights to the victim of a crime
21 or juvenile crime and allow the victim to contest a sentence?"

22 The legal voters of each city, town and plantation shall vote by ballot on this question
23 and designate their choice by a cross or check mark placed within the corresponding
24 square below the word "Yes" or "No." The ballots must be received, sorted, counted and
25 declared in open ward, town and plantation meetings and returns made to the Secretary of
26 State in the same manner as votes for members of the Legislature. The Governor shall
27 review the returns. If it appears that a majority of the legal votes are cast in favor of the
28 amendment, the Governor shall proclaim that fact without delay and the amendment
29 becomes part of the Constitution of Maine on the date of the proclamation; and be it
30 further

31 **Secretary of State shall prepare ballots. Resolved:** That the Secretary of State
32 shall prepare and furnish to each city, town and plantation all ballots, returns and copies
33 of this resolution necessary to carry out the purposes of this referendum.

34 **SUMMARY**

35 This resolution proposes to amend the Constitution of Maine to enact a Victims' Bill
36 of Rights, designed to ensure specific rights for victims of crime. The purpose of this
37 resolution is to place into the Constitution of Maine various rights regarding notification
38 of public proceedings at which the victim has a right to be heard, the right to confer with
39 the prosecution and the right to prompt and full restitution. This resolution requires a
40 court to grant a request by the victim to enforce the rights of the victim and to provide a
41 remedy for violations of the victim's rights, including the appeal of a sentence. This

1 resolution does not provide a victim a cause of action for compensation or damages
2 against the State or a political subdivision of the State, including the courts, or any
3 officer, employee or agent of the State or a political subdivision of the State.