

QUESTION NO. 2

Amendment to the Nevada Constitution

Senate Joint Resolution No. 2 of the 67th Session

CONDENSATION (ballot question)

Shall the Nevada Constitution be amended to provide specifically for the rights of victims of crime?

Yes

No

EXPLANATION

The proposed amendment to the Nevada Constitution would require the Legislature to provide by law for certain rights of victims of crime. These rights would include the right to be:

1. Informed of the status of criminal proceedings related to the crime;
2. Present at public hearings in the critical stages of such proceedings; and
3. Heard at proceedings for the sentencing or release of a convicted person.

Under the provisions of the amendment, a person may not bring a lawsuit for damages based on a violation of these rights. Also, such a violation is not a reason to set aside a conviction or sentence or to continue or postpone a criminal proceeding. However, a person may initiate an action to compel a public officer or employee to carry out duties associated with victims' rights.



ARGUMENTS FOR PASSAGE

The rights of persons accused of crimes are guaranteed in the state and federal constitutions. The rights of victims of crime should be included in the Nevada Constitution to guarantee permanent status and to establish their importance to the residents of Nevada. Although existing state laws include certain rights for victims, these laws are not consistently enforced. Victims of crime seeking justice are often ignored by the criminal justice system. Including these rights under the constitution will guarantee their enforcement by judges, attorneys and officers and other agents of the criminal justice system.

ARGUMENTS AGAINST PASSAGE

Basic rights already are guaranteed to the people by the state and federal constitutions, including the retention of rights set forth in the 9th Amendment of the United States Constitution. Further, existing law in Nevada provides victims of crime with the right to be informed and to be heard at certain stages of criminal proceedings. It is not necessary to include these rights in the constitution.

FISCAL NOTE

Fiscal Impact - Cannot be determined. The proposal to amend the Nevada Constitution would provide specifically for the rights of victims of crime. The notification of victims required by the proposal may be provided through one or more relevant state agencies. The fiscal effect would be determined by the agency(s) that administer(s) the program.

FULL TEXT OF THE MEASURE

LATE JOINT RESOLUTION—Proposing to amend the constitution of the State of Nevada to provide expressly for the rights of victims of crime.

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That section 8 of article 1 of the constitution of the State of Nevada be amended to read as follows:

Section] Sec. 8. 1. No person shall be tried for a capital or other infamous crime (except in cases of impeachment, in cases of the militia when in actual service and the land and naval forces in time of war, or which this state may keep, with the consent of congress, in time of peace, in cases of petit larceny, under the regulation of the legislature) except on presentment or indictment of the grand jury, or upon information duly filed by a district attorney, attorney-general of the state, and in any trial, in any court whatever, the party accused shall be allowed to appear and defend in person, and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled, in any criminal case, to be a witness against himself. [, nor]

2. The legislature shall provide by law for the rights of victims of crime, personally or through a representative, to be:

- a) Informed, upon written request, of the status or disposition of a criminal proceeding at any stage of the proceeding;
- b) Present at all public hearings involving the critical issues of a criminal proceeding; and
- c) Heard at all proceedings for the sentencing or release of a convicted person after trial.

3. Except as otherwise provided in subsection 4, no person shall maintain an action against the state or any public officer or employee for damages or injunctive, declaratory or other relief or equitable relief on behalf of a victim of a crime as a result of a violation of any statute enacted by the legislature pursuant to subsection 2. No such violation authorizes setting aside a conviction or sentence or continuing or postponing a criminal proceeding.

4. A person may maintain an action to compel a public

officer or employee to carry out any duty required by the legislature pursuant to subsection 2.

5. No person shall be deprived of life, liberty, or property, without due process of law.
[; nor shall private property]

6. Private property shall not be taken for public use without just compensation having been first made, or secured, except in cases of war, riot, fire, or great public peril, in which case compensation shall be afterward made.

