



General Assembly

**House Joint
Resolution No. 366**

January Session, 2021

LCO No. 5904



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

RESOLUTION PROPOSING A CONSTITUTIONAL AMENDMENT TO REMOVE A PROHIBITION AGAINST CONSTRUING THE CONSTITUTION OR STATUTE TO CREATE A BASIS FOR A CRIMINAL CONVICTION TO BE VACATED OR APPEALED IF A VICTIM IS NOT AFFORDED HIS OR HER RIGHTS IN COURT.

Resolved by this Assembly:

1 Section 1. That the following be proposed as an amendment to the
2 Constitution of the State, which, when approved and adopted in the
3 manner provided by the Constitution, shall, to all intents and purposes,
4 become a part thereof:

5 Subsection b. of article twenty-ninth of the amendments to the
6 Constitution is amended to read as follows:

7 b. In all criminal prosecutions, a victim, as the general assembly may
8 define by law, shall have the following rights: (1) The right to be treated
9 with fairness and respect throughout the criminal justice process; (2) the
10 right to timely disposition of the case following arrest of the accused,
11 provided no right of the accused is abridged; (3) the right to be
12 reasonably protected from the accused throughout the criminal justice
13 process; (4) the right to notification of court proceedings; (5) the right to

14 attend the trial and all other court proceedings the accused has the right
15 to attend, unless such person is to testify and the court determines that
16 such person's testimony would be materially affected if such person
17 hears other testimony; (6) the right to communicate with the
18 prosecution; (7) the right to object to or support any plea agreement
19 entered into by the accused and the prosecution and to make a statement
20 to the court prior to the acceptance by the court of the plea of guilty or
21 nolo contendere by the accused; (8) the right to make a statement to the
22 court at sentencing; (9) the right to restitution which shall be enforceable
23 in the same manner as any other cause of action or as otherwise
24 provided by law; and (10) the right to information about the arrest,
25 conviction, sentence, imprisonment and release of the accused. The
26 general assembly shall provide by law for the enforcement of this
27 subsection. [Nothing in this subsection or in any law enacted pursuant
28 to this subsection shall be construed as creating a basis for vacating a
29 conviction or ground for appellate relief in any criminal case.]

30 RESOLVED: That the foregoing proposed amendment to the
31 Constitution be continued to the next session of the General Assembly
32 elected at the general election to be held on November 8, 2022, and
33 published with the laws passed at the present session, or be presented
34 to the electors at the general election to be held on November 8, 2022,
35 whichever the case may be, according to article sixth of the amendments
36 to the Constitution. The designation of said proposed amendment to be
37 used on the ballots at such election shall be "Shall the Constitution of the
38 State be amended to remove a prohibition against construing the
39 constitution or statute to create a basis for a criminal conviction to be
40 vacated or appealed if a victim is not afforded his or her rights in court?"