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HJRC A 29: Constitutional Amendment to Expand and Enforce Crime Victims' Rights

Sponsors: Representatives Lang (D-16), Mell (D-40), Dugan (D-79), Reboletti (R-46), Ramey (R-55), Sacia (R-89), Gabel (D-18), Yarbrough (D-7), Crespo (D-44), Winters (R-68), Watson (R-97), Jakobsson (D-103), Eddy (R-109), Biss (D-17), Brauer (R-100), Poe (R-99), Mayfield (D-60), May (D-58), Harris (D-13), Moffitt (R-74), Rose (R-110), Acevedo (D-2), Gordon (D-92), Williams (D-11), Chapa LaVia (D-83), Ford (D-8), Howard (D-34), Colvin (D-33), Flowers (D-31), Turner (D-9), Durkin (R-82), Golar (D-6), Sullivan (R-51), Mathias (R-53), Holbrook (D-113), Berrios (D-39), Franks (D-63), Farnham (D-43), Sente (D-59), Mussman (D-56), McGuire (D-86), Mendoza (D-1), Riley (D-38), Tracy (R-93), Hatcher (R-50), Jones (D-29), Bost (R-115), Osmond (R-61), Cavaletto (R-107), Rosenthal (R-98), Senger (R-98), Verschoore (D-72), Hammond (R-94), Unes (R-91), Coladipietro (R-45), Connelly (R-48), Pritchard (R-70), Nybo (R-41), Harris (R-66), Morrison (R-54), Beiser (D-111), Kay (R-112), Bellock (R-47), Pihos (R-42), Lilly (D-78), McAuliffe (R-20), Mautino (D-78), Zalewski (D-21), Morthland (R-71), Davis (D-27), Roth (R-75), Bradley (D-117), Dunkin (D-5), Burke (D-23), Hernandez (D-24), Thapedi (D-32), Reitz (D-116), Brady (R-88)

This Resolution Makes Crime Victims' Rights a Reality

This resolution amends the Illinois Constitution to ensure that there is a remedy for violations of the rights victims have had under Illinois law for over 25 years. Just as an offender has a remedy when the offender's constitutional or statutory rights are violated, a victim should have a remedy when the victim's constitutional or statutory right is violated. As the United States Supreme Court noted in the landmark case of *Marbury v. Madison* (1803), where there is a legal right, there is also a legal remedy.

The Federal Government and Other States Have Statutory and Constitutional Enforcement Provisions and Remedies for Violations

Other states, including California, Arizona and Oregon recently have passed similar constitutional amendments making victims' rights enforceable. Many states already have enforcement language in their victims' rights statutes. In 2004, Congress passed the Crime Victims' Rights Act, providing victims of federal crimes extensive rights and means of redress if those rights are violated. Illinois is behind nationally on this key movement to make crime victims' rights enforceable. Federal and state courts have held that honoring the rights of crime victims does not affect a defendant's rights.

Crime Victims Need Enforceable Rights and a Remedy for Violations

Crime victims are central to the criminal justice process. These are the people who have been battered, raped, abused and whose family members have been murdered. Often, however, victims are ignored or even excluded throughout the criminal justice process. Their rights are violated, causing additional

trauma. Victims in Illinois need comprehensive, meaningful and enforceable rights, as well a means of redress when their rights are violated.

Currently Crime Victims' Rights Are Not Enforceable

Despite the fact that the Illinois Constitution and Illinois statutes guarantee crime victims certain rights, these rights are often violated and victims have no recourse. For example:

- Victims are guaranteed the right to be informed of court proceedings. Some victims never learn about hearings and others unnecessarily miss school or work only to learn that the hearing was postponed.
- Victims are guaranteed the right to be present at trials and hearings regarding their case. Some victims are placed on witness lists, thus excluding them from the court proceedings about the rape or act of violence that happened to them or their loved one.
- Victims are guaranteed the right to present a written statement to the court about the impact a violent crime has had on them. Some victims have been denied the right to present a statement.

How Victims Will Enforce Their Rights

This resolution gives crime victims the right to go to court and ask that the right they were denied be enforced. The resolution also requires the court to act promptly on such a request. For example, if a victim is not allowed to make a victim impact statement at a sentencing hearing, the court could order that the hearing be held again.

Illinois Coalition for Enforceable Victims' Rights

Attorney General Lisa Madigan
Chicago Alliance Against Sexual Exploitation
Chicago Coalition for the Homeless
Chicagoland Voice of the Faithful
Children's Advocacy Centers of Illinois
Cook County State's Attorney Alvarez
Cook County Sheriff Tom Dart
Crime Victims United of Illinois
Illinois Coalition Against Domestic Violence
Illinois Coalition Against Sexual Assault
Illinois Sheriffs' Association

Illinois State's Attorneys Association
Illinois State Police
National Organization of Parents of Murdered
Children, Inc.
Project IRENE
Purpose Over Pain
Rainbow PUSH Coalition
Support for Homicide Survivors
Survivors Network of Those Abused by Priests
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