

1 AN ACT proposing to create a new section of the Constitution of Kentucky relating
2 to crime victims' rights.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. Are you in favor of creating a new section of the Constitution of
5 Kentucky relating to crime victims, as proposed in Section 2 below?

6 ➔SECTION 2. IT IS PROPOSED THAT A NEW SECTION BE ADDED TO
7 THE CONSTITUTION OF KENTUCKY TO READ AS FOLLOWS:

8 ***To secure for victims of criminal acts or public offenses justice and due process and to***
9 ***ensure crime victims a meaningful role throughout the criminal and juvenile justice***
10 ***systems, a victim, as defined by law which takes effect upon the enactment of this***
11 ***section and which may be expanded by the General Assembly, shall have the following***
12 ***rights, which shall be respected and protected by law in a manner no less vigorous than***
13 ***the protections afforded to the accused in the criminal and juvenile justice systems:***
14 ***victims shall have the reasonable right, upon request, to timely notice of all***
15 ***proceedings and to be heard in any proceeding involving a release, plea, sentencing, or***
16 ***in the consideration of any pardon, commutation of sentence, granting of a reprieve, or***
17 ***other matter involving the right of a victim other than grand jury proceedings; the***
18 ***right to be present at the trial and all other proceedings, other than grand jury***
19 ***proceedings, on the same basis as the accused; the right to proceedings free from***
20 ***unreasonable delay; the right to consult with the attorney for the Commonwealth or***
21 ***the attorney's designee; the right to reasonable protection from the accused and those***
22 ***acting on behalf of the accused throughout the criminal and juvenile justice process;***
23 ***the right to timely notice, upon request, of release or escape of the accused; the right to***
24 ***have the safety of the victim and the victim's family considered in setting bail,***
25 ***determining whether to release the defendant, and setting conditions of release after***
26 ***arrest and conviction; the right to full restitution to be paid by the convicted or***
27 ***adjudicated party in a manner to be determined by the court, except that in the case of***

1 a juvenile offender the court shall determine the amount and manner of paying the
 2 restitution taking into consideration the best interests of the juvenile offender and the
 3 victim; the right to fairness and due consideration of the crime victim's safety, dignity,
 4 and privacy; and the right to be informed of these enumerated rights, and shall have
 5 standing to assert these rights. The victim, the victim's attorney or other lawful
 6 representative, or the attorney for the Commonwealth upon request of the victim may
 7 seek enforcement of the rights enumerated in this section and any other right afforded
 8 to the victim by law in any trial or appellate court with jurisdiction over the case. The
 9 court shall act promptly on such a request and afford a remedy for the violation of any
 10 right. Nothing in this section shall afford the victim party status, or be construed as
 11 altering the presumption of innocence in the criminal justice system. The accused shall
 12 not have standing to assert the rights of a victim. Nothing in this section shall be
 13 construed to alter the powers, duties, and responsibilities of the prosecuting attorney.
 14 Nothing in this section or any law enacted under this section creates a cause of action
 15 for compensation, attorney's fees, or damages against the Commonwealth, a county,
 16 city, municipal corporation, or other political subdivision of the Commonwealth, an
 17 officer, employee, or agent of the Commonwealth, a county, city, municipal
 18 corporation, or any political subdivision of the Commonwealth, or an officer or
 19 employee of the court. Nothing in this section or any law enacted under this section
 20 shall be construed as creating:

21 (1) A basis for vacating a conviction; or

22 (2) A ground for any relief requested by the defendant.

23 ➔Section 3. This amendment shall be submitted to the voters of the
 24 Commonwealth for their ratification or rejection at the time and in the manner provided
 25 for under Sections 256 and 257 of the Constitution and under Sections 4 and 5 of this
 26 Act.

27 ➔Section 4. Notwithstanding any language in KRS 118.415 to the contrary, the

1 Secretary of State shall cause the question in Section 1 of this Act and the entirety of the
2 proposed amendment to the Constitution of Kentucky contained in Section 2 of this Act
3 to be published at least one (1) time in a newspaper of general circulation published in
4 this state, and shall also cause to be published at the same time and in the same manner
5 the fact that the amendment will be submitted to the voters for their acceptance or
6 rejection at the next regular election at which members of the General Assembly are to be
7 voted for. The publication required by this section and KRS 118.415 shall be made no
8 later than the first Tuesday in August preceding the election at which the amendment is to
9 be voted on.

10 ➔Section 5. Notwithstanding any language in KRS 118.415 to the contrary, the
11 Secretary of State, not later than the second Monday after the second Tuesday in August
12 preceding the next regular election at which members of the General Assembly are to be
13 chosen in a year in which there is not an election for President and Vice President of the
14 United States, or not later than the Thursday after the first Tuesday in September
15 preceding a regular election in a year in which there is an election for President and Vice
16 President of the United States, shall certify the question in Section 1 of this Act and the
17 entirety of the proposed amendment to the Constitution of Kentucky contained in Section
18 2 of this Act to the county clerk of each county, and the county clerk shall have the
19 question is Section 1 of this Act and the entirety of the amendment contained in Section 2
20 of this Act, as so certified, indicated on the ballots provided to the voters in paper or
21 electronic form as applicable to the voting machines in use in each county or precinct.