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### FEDERAL RIGHTS FOR CRIME VICTIMS

*by Jay C. Howell*

For the past two decades we have been working to amend the United States Constitution to include a provision allowing for notice and participatory rights for the crime victim. In late April of this year, this uphill struggle came to a surprising conclusion. Passing a constitutional amendment is always a daunting task. First, you need two-thirds of the members of the United States Senate and House of Representatives to approve the measure. In the seven years following the passage of the amendment, three-quarters of the states must ratify it. It is always a difficult struggle. A couple of years ago the amendment almost made it onto the floor of the United States Senate, but was pulled back at the last minute because we had nowhere near the 67 votes the amendment required.

In late April, the amendment again came close to a floor vote in the United States Senate. Once again, the supporters, primarily Senators Kyle of Arizona and Feinstein of California, realizing that they again lacked the votes, made a dramatic compromise. In a 48-hour period, both the supporters and the opponents of the measure agreed to substitute a federal statute for the amendment and to pass it immediately. Two days later, the vote was 96 to 1 in favor of the new federal law to protect the rights of crime victims.

While lacking the obvious power of a constitutional provision, the statute nevertheless has some teeth. This new measure applies specifically to the federal court system and federal crimes. While it's true that almost all crimes of violence are tried in our state courts, a significant number of crime victims see their cases moved through the federal courts each year. The measure itself provides that the crime victim has the right to be reasonably protected from the accused, and the right to reasonable notice of public proceedings, and the right not to be excluded from such public hearings. Also included is the right to be

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reasonably heard regarding the release of the accused, a plea bargain, or sentence. The victim is given the right to confer or consult with the federal prosecutor and the right to full and timely restitution. Finally, the measure assures the right to proceedings that are free of unreasonable delay and the right to be treated with fairness and dignity.

Perhaps the most striking part of the new law is the provision for a prompt appeal in the event a federal court denies any of the guaranteed rights. The new law requires the Attorney General to issue regulations to enforce these rights and to establish an administrative authority in the Department of Justice to receive and investigate complaints concerning the violation of the rights of a crime victim.

The Senate bill also provides for five years of funding appropriations to institute programs to provide attorneys for victims in criminal cases for the specific purpose of the enforcement of their rights.

Of course, this is now a measure passed by the Senate. It must next go to the House of Representatives, be acted upon favorably, and then be accepted by both Houses. It does not directly apply to any of the states criminal justice systems where the real heavy lifting is done. Nonetheless, the tone and the substance of the bill will likely result in some "trickle down" where states may emulate the provisions of the bill and pass similar measures. The sponsors and opponents of the constitutional amendment may soon have a statute in place which will finally determine whether or not a constitutional provision is necessary in order to protect the rights of victims.

The Senate bill which passed is identified as Senate Bill 2329.