

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass and Rescind the Subsequent Referral to Ways and Means
Vote:	10 - 0 - 0
Yeas:	Barton, Cameron, Garrett, Krieger, Olson, Shields, Smith J., Stiegler, Whisnant, Barker
Nays:	0
Exc.:	0
Prepared By:	Shannon Sivell, Counsel
Meeting Dates:	4/29, 5/4

WHAT THE MEASURE DOES: Creates statutory framework for victims to exercise constitutional rights set forth in Sections 42 and 43, Article I of the Constitution of the State of Oregon. Authorizes Attorney General to adopt rules to establish non-judicial process to determine if violations have occurred and make nonbinding recommendations for achieving full compliance with victims' rights laws in the future. Clarifies when a district attorney and when probation department will notify a victim of a probation hearing.

ISSUES DISCUSSED:

- Provisions of the measure
- Fiscal impact

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: In the November 5, 1996 general election, the voters of Oregon adopted Ballot Measure 40, a comprehensive and far-reaching series of amendments to Oregon's Bill of Rights, particularly as it relates to victims and criminal defendants before the courts of Oregon. The Oregon Supreme Court found Ballot Measure 40 unconstitutional on the grounds that it contained two or more amendments to the Constitution in violation of Section 1, Article XVIII, of the Oregon Constitution. *Armatta v. Kitzhaber*, 327 Or. 250 (1998). After *Armatta*, the Legislative Assembly referred seven individual amendments to the Oregon Constitution to the voters. The voters approved four amendments and rejected three. One of the approved proposals became Section 42, Article I of the Constitution of the State of Oregon. It grants to victims of crime the right to: (1) be present and informed in advance of all critical stages of the proceeding that are held in open court when the defendant is present; (2) obtain information about the conviction, sentence, imprisonment, criminal history and future release from custody of the defendant; (3) refuse a discovery request by the defendant; (4) receive restitution from the convicted defendant; (5) have a copy of the transcript of any court proceedings; (6) be consulted regarding plea negotiations involving a violent felony; and, (7) be informed of these rights.

Another approved proposal became Section 43, Article I of the Constitution of the State of Oregon. It grants victims the right to: (1) be reasonably protected from the criminal defendant or convicted criminal throughout the criminal justice process; and (2) have decisions by the court regarding pretrial release of a criminal defendant based on the principle of reasonable protection of the victim and the public, as well as the likelihood that the criminal defendant will appear for trial.

Although both of these constitutional amendments granted rights to victims, neither specified how a victim, in his or her individual capacity, could exercise these rights. To rectify this problem, during the 2007 Legislative Session, the legislature referred to the voters House Joint Resolution 49 and House Joint Resolution 50. The voters adopted these proposals in May, 2008. Victims now have the constitutional authority to seek, in their individual capacities, redress for rights that are denied. SB 233A sets forth the process and procedure to assert these rights.

5/6/2009 10:43:00 AM

This summary has not been adopted or officially endorsed by action of the committee.