



**TESTIMONY IN OPPOSITION TO 2026—H 8063**

This legislation would essentially give victims of crime the ability to veto the ultimate resolution of a disposition agreed to by the parties and accepted by the court in a criminal case. As such it would make the victims a party in all criminal cases, an idea that is direct contravention of the common law and its development over the course of centuries.

In most criminal justice systems (especially in the United States), crime victims are not direct parties to the criminal case. The case is formally “The State vs. the Defendant” (for example, State v. Smith), not Victim v. Defendant. This structure comes from several legal principles.

- Crimes Are Considered Offenses Against the State: When someone commits a crime, the law treats it as a violation of public order, not just harm to an individual. The government represents society as a whole. The prosecutor acts on behalf of the state, not the victim. For example, if someone assaults another person, the government prosecutes because violence threatens public safety, even though a specific person was harmed. If criminal cases were run by victims themselves, enforcement of the law could become inconsistent or influenced by personal motives.
- To Protect Due Process for the Defendant: The U.S. legal system prioritizes fair trial protections for the accused under the Constitution (like the Sixth Amendment). Allowing victims to directly control the prosecution could create risks such as:
  - Emotional decision-making
  - Pressure for harsher punishment regardless of evidence
  - Multiple parties arguing against the defendant

Instead, a neutral prosecutor is supposed to seek justice rather than simply “win for the victim.”

- To Avoid Private Revenge or Personal Litigation: Historically, many early systems allowed victims to prosecute crimes themselves. Problems emerged:
  - Wealthy victims could pursue cases more aggressively.
  - Poor victims might not pursue crimes at all.
  - Prosecutions could become personal vendettas.
  - Modern criminal law centralized prosecution in the state to standardize justice.
- Since 1986 Rhode Island Crime Victims Have Enjoyed Constitutional and Statutory Authority that Provides for Their Robust Participation in the Criminal Justice Process:

- In 1986 Rhode Island became the second state in the United States to add a victim's rights provision to its state constitution. Article 1, Section 23 of the Rhode Island Constitution states as follows:

*Rights of victims of crime. A victim of crime shall, as a matter of right, be treated by agents of the state with dignity, respect and sensitivity during all phases of the criminal justice process. Such person shall be entitled to receive, from the perpetrator of the crime, financial compensation for any injury or loss caused by the perpetrator of the crime, and shall receive such other compensation as the state may provide. Before sentencing, a victim shall have the right to address the court regarding the impact which the perpetrator's conduct has had upon the victim.<sup>1</sup>*

- Rhode Island also has a comprehensive statutory scheme that provides for victims of crimes robust participation in the criminal justice process, which begins at the time charges are brought and continues even after the case has been concluded. Entitled "The Victims Bill of Rights",<sup>2</sup> the rights it affords victims, their families, or representatives includes but is not limited to the following:
  - Be notified no less frequently than every three (3) months by law enforcement authorities of the status of the investigation, until the time that the alleged perpetrator is apprehended or the investigation closed, beginning with the arraignment of the alleged perpetrator before a court empowered to set bail and to be informed of the release of the alleged perpetrator on bail or personal recognizance
  - To receive protection from harm and threats of harm arising out of the victim's cooperation with law enforcement
  - To be notified of all court proceedings at which the victim's presence is required in a reasonable amount of time prior to the proceeding
  - To be provided, whenever feasible, with a secure waiting area during court proceedings that does not require the victim to be in close proximity to the defendant
  - To be informed of the procedure to be followed in order to apply for and receive any witness fee to which the victim is entitled

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<sup>1</sup> California was the first state in the United States to add a victim's rights provision to its state constitution. [https://ovc.ojp.gov/sites/g/files/xyckuh226/files/pubs/OVC\\_Archives/ncvrw/1997/const.htm#:~:text=Table\\_title:%20National%20Crime%20Victim's%20Rights%20Week%20%2D,PASSED:%201993%20%7C%20ELECTORAL%20SUPP%20RT:%2084%25%20%7C](https://ovc.ojp.gov/sites/g/files/xyckuh226/files/pubs/OVC_Archives/ncvrw/1997/const.htm#:~:text=Table_title:%20National%20Crime%20Victim's%20Rights%20Week%20%2D,PASSED:%201993%20%7C%20ELECTORAL%20SUPP%20RT:%2084%25%20%7C)

<sup>2</sup> RIGL Sec. 12-28-1 to 13. <https://webserver.rilegislature.gov//Statutes/TITLE12/12-28/INDEX.htm>

- To be provided with appropriate employer intercession services to ensure that the employer of the victim will cooperate with the criminal justice process in order to minimize the employee's loss of pay and other benefits resulting from court appearances
  - To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence
  - To be informed of financial assistance and other social services available to crime victims and the manner of applying for them
  - To be consulted by the administrator of probation and parole in the course of his or her preparation of the presentence report on felony cases and to have included in that report a statement regarding the impact which the defendant's criminal conduct has had upon the victim
  - To be afforded the right to address the court prior to sentencing
  - To be informed of the disposition of the case against the alleged offender
  - To be notified in felony cases whenever the defendant or perpetrator is released from custody at the ACI
- Notwithstanding this panoply of rights, victims of crime also retain the right to sue their perpetrators in court.

Respectfully Submitted,

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