

and Notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any claim or relief requested by the Petitioners.

YOU SHOULD TAKE THIS PAPER TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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LEAGUE OF WOMEN VOTERS OF
PENNSYLVANIA and LORRAINE HAW,

Petitioners,

v.

KATHY BOOCKVAR, THE ACTING
SECRETARY OF THE COMMONWEALTH,

Respondent.

:
:
: COMMONWEALTH COURT
: OF PENNSYLVANIA

:
:
: ORIGINAL JURISDICTION

:
:
: No. _____

PETITION FOR REVIEW
ADDRESSED TO THIS COURT'S ORIGINAL JURISDICTION

INTRODUCTION

1. This petition challenges a ballot question, scheduled to be placed before the voters on the November 5, 2019 general election ballot, that violates the constitutional mandate in Article XI, § 1 of the Pennsylvania Constitution which provides that: “When two or more amendments shall be submitted they shall be voted upon separately.” Pa. Const. art. XI, § 1. Article XI, § 1 “insures that the voters will ‘be able to express their will as to each substantive constitutional change separately.’” *Pa. Prison Soc’y v. Commonwealth*, 776 A.2d 971, 976 (Pa. 2001) (quoting *Pa. Prison Soc’y v. Commonwealth*, 727 A.2d 632, 634–35 (Pa. Commw. Ct. 1999)). Because the November 2019 ballot question proposes several amendments to Pennsylvania’s Constitution, but allows voters only a single “yes” or “no” vote, it violates Article XI, § 1’s separate-vote requirement and the electorate’s right to vote. Compounding this problem, the text of the proposed constitutional amendment will not be on the ballot; instead, the voters will be asked to vote “yes” or “no” to a brief and incomplete summary of the proposed changes.

2. The challenged ballot question asks voters to adopt or reject the proposed constitutional amendment known as Joint Resolution 2019-1, or Marsy’s Law, which would add a new section 9.1 to Article I of the Pennsylvania Constitution. The new section would create fifteen new constitutional rights for

crime victims that must be enforced to the same degree as the constitutional rights of the accused in criminal court proceedings. The amendment would allow victims or prosecutors to seek a court order to enforce these constitutional rights, and, additionally, would empower the General Assembly to pass laws to define and implement these new rights.

3. These new rights would significantly change the rights now provided to the accused set forth in Article I, § 9 (“Rights of accused in criminal prosecutions”), Article I, § 6 (“Trial by jury”), Article I, § 10 (“No person shall, for the same offense, be twice put in jeopardy of life or limb”), Article I, § 14 (“Prisoners to be bailable; habeas corpus”), and Article V, § 9 (“Right of appeal”). In addition, they would affect the public’s right of access to court proceedings set forth in Article I, § 11; the governor’s power to pardon, set forth in Article IV, § 9; and the Supreme Court’s authority over court proceedings, set forth in Article V, § 10 (“Judicial administration”), and jurisdiction over appeals, set forth in the Schedule to the Judiciary. Thus, these amendments encompass multiple subject matters that affect at least three articles, eight sections, and a schedule of the Pennsylvania Constitution.

4. The right to amend the Constitution belongs to the voters, not the Legislature. The proposed ballot question violates that fundamental right of voters and should be enjoined.

PARTIES

Petitioners

5. The League of Women Voters is a nationwide, nonpartisan grassroots organization of women and men who believe that through informed action, people can make profound changes in their communities. The League of Women Voters of Pennsylvania (“the League”) is the state chapter of the League of Women Voters.

6. The League encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy. The League does not support or oppose any political party or candidate but does take—and always has taken—stands on issues its members have studied.

7. The League frequently takes positions on issues such as voting and election reforms, criminal justice reform, fair funding for education, environmental protection, and more.

8. The ultimate goal of the League and its members is to create an informed, empowered citizenry and a responsible, responsive government.

9. The League and the members it represents have a substantial, direct, and immediate interest in this case, because the challenged ballot question

threatens to deprive the voters of the Commonwealth of their right to decide what changes to make to their Constitution.

10. Petitioner Lorraine Haw is a resident and registered voter in the Commonwealth.

11. Ms. Haw lost both her brother and her son to crime: her brother was murdered and her son is serving life in prison without parole for felony murder.

12. Ms. Haw works to free both the man who murdered her brother and her son from what she calls “death by incarceration.” Ms. Haw believes that everyone deserves a second chance.

13. Ms. Haw is a member of Coalition to Abolish Death by Incarceration (CADBI), a member of Free the Ballot, which works to make criminal justice reform an issue in elections, and a member of FAMM – Families Against Mandatory Minimums.

14. Ms. Haw also has a criminal record. In the 1980s and 1990s, she was addicted to drugs, and committed crimes to support that habit. She got clean, and served her sentences.

15. Ms. Haw is applying for a pardon from the Governor. She is concerned about what will happen with her petition if someone comes forward as a victim of her thirty-year-old crimes and objects to her clearing her name.

16. Ms. Haw agrees with parts of Marsy’s Law—like considering the safety of victims and their families at bail hearings. But she is opposed to the parts of the amendment that she believes will take away rights from defendants.

17. Ms. Haw cannot vote for the parts of the amendment she agrees with without voting for other things she disagrees with. She wants to be able to vote separately on each change to the Constitution, as is her right.

Respondent

18. Kathy Boockvar was appointed Acting Secretary of the Commonwealth on January 5, 2019. In this role, Boockvar leads the Pennsylvania Department of State.

19. Respondent Bookvar is tasked by the Election Code with the duties described herein relating to the presentation of the ballot question to the voters.

JURISDICTION

20. This Court has original jurisdiction of this action pursuant to 42 Pa. Cons. Stat. § 761(a), because it is a civil action against an officer of the Commonwealth government, acting in her official capacity.

FACTUAL ALLEGATIONS

21. The Joint Resolution was first introduced into the Pennsylvania General Assembly as Senate Bill 1011 (SB 1011) during the 2017-2018 legislative session. On March 21, 2018, the state Senate approved SB 1011.

22. The House Judiciary Committee voted to amend SB 1011, and the full state House of Representatives took up the amended bill on June 20, 2018. The state House approved the amended bill.

23. As the state House approved an amended version of SB 1011, the state Senate needed to concur with the changes for the bill to be approved. On June 21, 2018, the state Senate approved the amended version of SB 1011.

24. Before a proposed constitutional amendment can be submitted to the voters, it must be approved by both houses of the General Assembly in two consecutive legislative sessions.

25. During the 2019-2020 legislative session, a Joint Resolution that was identical to the amended version of SB 1011 was introduced as House Bill 276 (HB 276). On April 8, 2019, the state House passed HB 276. On June 19, 2019, the state Senate passed HB 276, which is also known as Joint Resolution 2019-1.

26. Joint Resolution 2019-1 states:

Proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, providing for rights of victims of crime.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of Pennsylvania is proposed in accordance with Article XI:

That Article I be amended by adding a section to read:

§ 9.1. Rights of victims of crime.

(a) To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, as further provided and as defined by the General Assembly, which shall be protected in a manner no less vigorous than the rights afforded to the accused: to be treated with fairness and respect for the victim's safety, dignity and privacy; to have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the accused; to reasonable and timely notice of and to be present at all public proceedings involving the criminal or delinquent conduct; to be notified of any pretrial disposition of the case; with the exception of grand jury proceedings, to be heard in any proceeding where a right of the victim is implicated, including, but not limited to, release, plea, sentencing, disposition, parole and pardon; to be notified of all parole procedures, to participate in the parole process, to provide information to be considered before the parole of the offender, and to be notified of the parole of the offender; to reasonable protection from the accused or any person acting on behalf of the accused; to reasonable notice of any release or escape of the accused; to refuse an interview, deposition or other discovery request made by the accused or any person acting on behalf of the accused; full and timely restitution from the person or entity convicted for the unlawful conduct; full and timely restitution as determined by the court in a juvenile delinquency proceeding; to the prompt return of property when no longer needed as evidence; to proceedings free from unreasonable delay and a prompt and final conclusion of the case and any related postconviction proceedings; to confer with the attorney for the government; and to be informed of all rights enumerated in this section.

(b) The victim or the attorney for the government upon request of the victim may assert in any trial or appellate court, or before any other authority, with jurisdiction over the case, and have enforced, the rights enumerated in this section and any other right afforded to the victim by law. This section does not grant the victim party status or create any cause of action for compensation or damages against the Commonwealth or any political subdivision, nor any

officer, employee or agent of the Commonwealth or any political subdivision, or any officer or employee of the court.

(c) As used in this section and as further defined by the General Assembly, the term “victim” includes any person against whom the criminal offense or delinquent act is committed or who is directly harmed by the commission of the offense or act. The term “victim” does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor or incapacitated victim.

Section 2. (a) Upon the first passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment.

(b) Upon the second passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment. The Secretary of the Commonwealth shall submit this proposed constitutional amendment to the qualified electors of this Commonwealth at the first primary, general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.

Joint Resolution 2019-1 (attached hereto as Exhibit A) (emphasis in original).

27. Pursuant to the Pennsylvania Election Code § 201.1, the Attorney General of the Commonwealth must “prepare a statement in plain English which

indicates the purpose, limitations and effects of the ballot question.” 25 Pa. Stat. Ann. § 2621.1.

28. The Secretary of the Commonwealth must publish the Attorney General’s plain English statement alongside the proposed constitutional amendment, and must certify the Attorney General’s statement to the county boards of elections who must publish the statement as a part of any notice of elections. At least three copies of the Attorney General’s statement must be posted in or about the polling place along with the specimen ballots and other instructions. 25 Pa. Stat. Ann. § 2621.1.

29. The Attorney General prepared the following Plain English Statement to accompany Joint Resolution 2019-1:

Plain English Statement of the Office of Attorney General

The proposed amendment, if approved by the electorate, will add a new section to Article I of the Pennsylvania Constitution. That amendment will provide victims of crimes with certain, new constitutional rights that must be protected in the same way as the rights afforded to individuals accused of committing a crime.

The proposed amendment defines “victim” as both a person against whom the criminal act was committed and any person who was directly harmed by it. The accused or any person a court decides is not acting in the best interest of a victim cannot be a victim.

Generally, the proposed amendment would grant victims the constitutional right to receive notice and be present and speak at public proceedings involving the alleged criminal conduct. It would also grant victims the constitutional right to receive notice of any escape or release of the accused and the right to have their safety and the safety of their family considered in setting the amount of bail and other release

conditions. It would also create several other new constitutional rights, such as the right to timely restitution and return of property, the right to refuse to answer questions asked by the accused, and the right to speak with a government attorney.

Specifically, the proposed amendment would establish the following new rights for victims:

- To be treated with fairness and respect for the victim's safety, dignity and privacy
- To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the accused
- To reasonable and timely notice of and to be present at all public proceedings involving the criminal or delinquent conduct
- To be notified of any pretrial disposition of the case
- With the exception of grand jury proceedings, to be heard in any proceeding where a right of the victim is implicated, including, but not limited to, release, plea, sentencing, disposition, parole and pardon
- To be notified of all parole procedures, to participate in the parole process, to provide information to be considered before the parole of the offender, and to be notified of the parole of the offender
- To reasonable protection from the accused or any person acting on behalf of the accused
- To reasonable notice of any release or escape of the accused
- To refuse an interview, deposition or other discovery request made by the accused or any person acting on behalf of the accused

- Full and timely restitution from the person or entity convicted for the unlawful conduct
- Full and timely restitution as determined by the court in a juvenile delinquency proceeding
- To the prompt return of property when no longer needed as evidence
- To proceedings free from unreasonable delay and a prompt and final conclusion of the case and any related postconviction proceedings
- To confer with the attorney for the government
- To be informed of all rights enumerated in this section

The proposed amendment would allow a victim or prosecutor to ask a court to enforce these constitutional rights but would not allow a victim to become a legal party to the criminal proceeding or sue the Commonwealth or any political subdivision, such as a county or municipality, for monetary damages.

Once added to the Pennsylvania Constitution, these specific rights of victims cannot be eliminated, except by a judicial decision finding all or part of the amendment unconstitutional or the approval of a subsequent constitutional amendment. If approved, the General Assembly may pass a law to implement these new, constitutional rights, but it may not pass a law eliminating them. If approved, State and local governments will need to create new procedures to ensure that victims receive the rights provided for by the amendment.

Attorney General Statement (attached hereto as Exhibit A).

30. The Secretary of the Commonwealth, as required by 25 Pa. Stat. Ann.

§ 3010 (2019), drafted the text of the ballot question that will present Joint

Resolution 2019-1 to the voters:

Shall the Pennsylvania Constitution be amended to grant certain rights to crime victims, including to be treated with fairness, respect and

dignity; considering their safety in bail proceedings; timely notice and opportunity to take part in public proceedings; reasonable protection from the accused; right to refuse discovery requests made by the accused; restitution and return of property; proceedings free from delay; and to be informed of these rights, so they can enforce them?

Ballot Question (attached hereto as Exhibit A).

31. The Secretary has published the ballot question, the Attorney General's Plain English Statement, and Joint Resolution 2019-1 together on the Department of State website under the heading: "Proposed Constitutional Amendment: Crime Victim Rights (Marsy's Law)," which can be found at <https://www.dos.pa.gov/VotingElections/CandidatesCommittees/RunningforOffice/Pages/Joint-Resolution-2019-1.aspx>.

32. Petitioner League of Women Voters of Pennsylvania and the members it represents have a substantial, direct, and immediate interest in this case, because the challenged ballot question threatens to deprive the voters of the Commonwealth of their right to decide what changes to make to their Constitution.

33. Petitioner Ms. Haw objects that as a voter she is not able to vote separately on the many changes the amendment would make. She has averred that she would support some, but not all, of the changes.

COUNT I

The Ballot Question Violates Article XI, § 1 of the Pennsylvania Constitution's Requirement that "When two or more amendments shall be submitted they shall be voted upon separately."

34. Petitioners hereby incorporate the foregoing Paragraphs as if they were fully set forth herein.

35. Article XI, § 1 of the Pennsylvania Constitution permits the General Assembly to propose Constitutional amendments to the electorate, but requires that "[w]hen two or more amendments shall be submitted they shall be voted upon separately." Pa. Const. art. XI, § 1. This separate-vote requirement is violated when a single ballot question proposes changes related to different subject matters. *Grimaud v. Commonwealth*, 865 A.2d 835, 841 (Pa. 2005).

36. Article XI, § 1's separate vote requirement must be strictly applied. *Bergdoll v. Kane*, 731 A.2d 1261, 1270 (Pa. 1999). Because Article XI, § 1 "provid[es] a complete and detailed process for the amendment of th[e] Constitution" . . . [n]othing short of a literal compliance with this mandate will suffice." *Id.* (quoting *Kremer v. Grant*, 606 A.2d 433, 436, 438 (Pa. 1992)).

37. The constitutional amendment presented by the November 2019 ballot question violates Article XI, § 1 in that:

- a. The amendment, on its face, makes multiple changes to the Constitution because it provides a whole series of new and

mutually independent rights to victims of crimes, and extends new powers to the General Assembly; and

- b. The amendment would effectively amend multiple existing constitutional articles and sections across multiple subject matters.

38. By its plain language, the constitutional amendment proposed by the ballot question would grant numerous “*rights*” to crime victims, which are separated by seven semicolons. These matters cannot be said to encompass one subject.

39. Even the short summary of the amendment for the ballot question drafted by the Secretary makes clear that the ballot question will effect a series of substantive changes, described with the plural “rights,” which are marked off by semicolons and prefaced by the preposition “including”:

Shall the Pennsylvania Constitution be amended to grant certain *rights* to crime victims, *including* to be treated with fairness, respect and dignity; considering their safety in bail proceedings; timely notice and opportunity to take part in public proceedings; reasonable protection from the accused; right to refuse discovery requests made by the accused; restitution and return of property; proceedings free from delay; and to be informed of these rights, so they can enforce them?

Ex. A, Ballot Question.

40. The plain English Statement of the Office of Attorney General, likewise, uses plurals, multiple paragraphs, and even bullet points to set off the

separate and distinct “several . . . new constitutional rights” the amendment would establish. Ex. A, Attorney General Statement.

41. Despite proposing numerous rights that encompass several subject matters, the ballot question in its current form prevents voters from voting on each constitutional change separately. Voters must answer a multi-faceted question, creating multiple new rights, with a single “yes” or “no” vote. This means that a voter is compelled to vote in favor of the amendment even if he or she only supports some of its changes. This “logrolling” violates Article XI, § 1’s mandate and the will of the electorate.

42. The ballot question also amends multiple sections in the Constitution’s existing text.

43. Some of the changes to other parts of the Constitution include, among other changes, the following:

- a. “In all criminal prosecutions the accused hath a right . . . to be confronted with the witnesses against him,” Pa. Const. art. I, § 9, but under Marsy’s Law victims are entitled to protection of their dignity and privacy, and the accused may not compel any victim to provide an interview or deposition or respond to any other discovery request.

- b. “In all criminal prosecutions the accused hath a right . . . to have compulsory process for obtaining witnesses in his favor,” Pa. Const. art. I, § 9, but under Marsy’s Law the accused may not compel any victim to provide an interview or deposition or respond to any other discovery request.
- c. “No person shall, for the same offense, be twice put in jeopardy of life or limb,” Pa. Const. art. I, § 9, but under Marsy’s Law a victim who did not receive notice and an opportunity to attend and be heard at the trial may demand that the court conduct a new trial.
- d. “All prisoners shall beailable by sufficient sureties,” Pa. Const. art. I, § 14, but under Marsy’s Law the accused is notailable until the court has given notice to, heard from and considered the safety of every person who has been directly harmed by the conduct of which the defendant is accused and the families of all such persons.
- e. “[T]he Governor shall have power to remit fines and forfeitures, to grant reprieves, commutation of sentences and pardons; but no pardon shall be granted, nor sentence commuted, except on the recommendation in writing of a majority of the Board of

Pardons, and, in the case of a sentence of death or life imprisonment, on the unanimous recommendation in writing of the Board of Pardons, after full hearing in open session,” Pa. Const. art. IV, § 9, except that under Marsy’s Law, no pardon may issue unless every person who has been directly harmed by the offense has been given notice and an opportunity to be heard.

- f. “The Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts,” Pa. Const. art. V, § 10, except that under Marsy’s Law, the General Assembly may provide for and define the rights of victims in criminal proceedings.

44. The League and its members and Ms. Haw wish to be able to accept or reject each proposed change to the Constitution, on its own merits, as they have the right to do.

COUNT II

The Ballot Question Violates Article XI, § 1 of the Pennsylvania Constitution’s Requirement that “proposed amendment or amendments shall be submitted to the qualified electors of the State.”

45. Petitioners hereby incorporate the foregoing Paragraphs as if they were fully set forth herein.

46. The November 2019 ballot question is unconstitutional because it is does not contain the actual text of the constitutional amendment. Pennsylvania’s Constitution requires that the entire text of a proposed amendment be printed on a ballot question: “[S]uch proposed amendment or amendments shall be submitted to the qualified electors of the State in such manner, and at such time at least three months after being so agreed to by the two Houses, as the General Assembly shall prescribe.” Pa. Const. art. XI, § 1.

COUNT III

In the Alternative, the Ballot Question Violates the Electorate’s Right to Be Fully Informed of the Question to Be Voted On Because It Does Not Fairly, Accurately, and Clearly Apprise Voters of the Issue.

47. Petitioners hereby incorporate the foregoing Paragraphs as if they were fully set forth herein.

48. The ballot question composed by the Secretary does not conform to the standards established by the Pennsylvania Supreme Court.

49. The Secretary is charged with preparing the form of the ballot question that will be placed before the voters.

50. The form of the ballot question put to the voters must “fairly, accurately and clearly apprise the voter of the question or issue to be voted on.” *Stander v. Kelley*, 250 A.2d 474, 480 (Pa. 1969).

51. The Secretary’s question does not enumerate all of the components of the proposed Section 9.1. It omits many of the new rights afforded to crime victims and their families, including, for example, the right to be notified of any pretrial disposition of the case; the right to be heard at any proceeding in which the rights of the victim are implicated, including release, plea, sentencing, disposition, parole, and pardon proceedings; the right to participate in the parole process; the right to prompt and final conclusion of cases and any related postconviction proceedings; and the right to confer with attorneys for the government. The text also omits all of the many changes to existing constitutional provisions affording rights to the accused—including the right to a speedy trial, the right to confront witnesses, the right against double jeopardy, the right to bail, the right to post-conviction relief, and the right to appeal—as well as changes to the public’s right of access to court proceedings, to the Governor’s pardoning power, and to powers given to the judiciary by the Constitution. *See Sprague v. Cortes*, 145 A.3d 1136, 1145 (Todd, J., dissenting) (“[T]here is a categorical difference between the act of creating something entirely new and altering something which already exists. Language which suggests the former while, in actuality, doing the latter is, at the very least, misleading, and, at its worst, constitutes a ruse.”).

52. The Secretary’s failure to encompass all of the components of the proposed amendment into 75 words does not reflect any neglect on the part of the

Secretary. Rather, it shows that the proposed amendment is far too complex and multi-faceted to be presented in a 75-word summary. *See Pa. Prison Soc’y*, 776 A.2d at 976 (reviewing the Commonwealth Court’s reasoning that amendment by popular initiative “was not designed to effectuate sweeping, complex changes to the Constitution”).

53. The Secretary was forced to choose between complying with the strictures of the Election Code and presenting to voters the full scope of the changes to be made to the Constitution.

54. The form of the ballot question does not fairly convey the substance of the proposed amendment, and cannot, in 75 words, be made to do so. It does not satisfy the test set forth by the Supreme Court.

REQUEST FOR RELIEF

WHEREFORE, Petitioners request that this Court enter judgment in their favor and:

- a. Declare that the constitutional amendment proposed by Joint Resolution 2019-1 and the November 2019 ballot question violates the requirement of Article XI, § 1 of the Pennsylvania Constitution that “when two or more amendments shall be submitted they shall be voted upon separately;”
- b. Declare that the November 2019 ballot question violates the requirement of Article XI, § 1 of the Pennsylvania Constitution that the “proposed amendment or amendments shall be submitted to the qualified electors of the State;”
- c. Declare that the November 2019 ballot question violates the electorate’s right to be fully informed of the question to be voted on because it does not fairly, accurately, and clearly apprise voters of the issue;
- d. Preliminarily and permanently enjoin the Secretary from submitting the November 2019 ballot question to the voters;
- e. Invalidate any votes cast for or against the November 2019 ballot question; and

f. Grant such other relief as may be just and proper.

Date: October 10, 2019

/s/ Steven E. Bizar
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Attorneys for Petitioners

CERTIFICATION

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Date: October 10, 2019

/s/ Tiffany E. Engsell
Tiffany E. Engsell (Pa. 320711)

VERIFICATION

I, Jill Greene, the Executive Director of the League of Women Voters of Pennsylvania, verify that the facts set forth in the foregoing complaint are true and correct to the best of my information, knowledge and belief. I understand that the statements contained herein are subject to the penalties of 18 PA. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: October 9, 2019.



VERIFICATION

I, Lorraine Haw, verify that the facts set forth in the foregoing complaint concerning me are true and correct to the best of my information, knowledge and belief. I understand that the statements contained herein are subject to the penalties of 18 PA. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: October 9, 2019.

Lorraine Haw

EXHIBIT A

Ballot Question

Shall the Pennsylvania Constitution be amended to grant certain rights to crime victims, including to be treated with fairness, respect and dignity; considering their safety in bail proceedings; timely notice and opportunity to take part in public proceedings; reasonable protection from the accused; right to refuse discovery requests made by the accused; restitution and return of property; proceedings free from delay; and to be informed of these rights, so they can enforce them?

Plain English Statement of the Office of Attorney General

The proposed amendment, if approved by the electorate, will add a new section to Article I of the Pennsylvania Constitution. That amendment will provide victims of crimes with certain, new constitutional rights that must be protected in the same way as the rights afforded to individuals accused of committing a crime.

The proposed amendment defines "victim" as both a person against whom the criminal act was committed and any person who was directly harmed by it. The accused or any person a court decides is not acting in the best interest of a victim cannot be a victim.

Generally, the proposed amendment would grant victims the constitutional right to receive notice and be present and speak at public proceedings involving the alleged criminal conduct. It would also grant victims the constitutional right to receive notice of any escape or release of the accused and the right to have their safety and the safety of their family considered in setting the amount of bail and other release conditions. It would also create several other new constitutional rights, such as the right to timely restitution and return of property, the right to refuse to answer questions asked by the accused, and the right to speak with a government attorney.

Specifically, the proposed amendment would establish the following new rights for victims:

To be treated with fairness and respect for the victim's safety, dignity and privacy

To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the accused

To reasonable and timely notice of and to be present at all public proceedings involving the criminal or delinquent conduct

To be notified of any pretrial disposition of the case

With the exception of grand jury proceedings, to be heard in any proceeding where a right of the victim is implicated, including, but not limited to, release, plea, sentencing, disposition, parole and pardon

To be notified of all parole procedures, to participate in the parole process, to provide information to be considered before the parole of the offender, and to be notified of the parole of the offender

To reasonable protection from the accused or any person acting on behalf of the accused

To reasonable notice of any release or escape of the accused

To refuse an interview, deposition or other discovery request made by the accused or any person acting on behalf of the accused

Full and timely restitution from the person or entity convicted for the unlawful conduct

Full and timely restitution as determined by the court in a juvenile delinquency proceeding

To the prompt return of property when no longer needed as evidence

To proceedings free from unreasonable delay and a prompt and final conclusion of the case and any related postconviction proceedings

To confer with the attorney for the government

To be informed of all rights enumerated in this section

The proposed amendment would allow a victim or prosecutor to ask a court to enforce these constitutional rights but would not allow a victim to become a legal party to the criminal proceeding or sue the Commonwealth or any political subdivision, such as a county or municipality, for monetary damages.

Once added to the Pennsylvania Constitution, these specific rights of victims cannot be eliminated, except by a judicial decision finding all or part of the amendment unconstitutional or the approval of a subsequent constitutional amendment. If approved, the General Assembly may pass a law to implement these new, constitutional rights, but it may not pass a law eliminating them. If approved, State and local governments will need to create new procedures to ensure that victims receive the rights provided for by the amendment.

Joint Resolution NO. 2019-1

Proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, providing for rights of victims of crime.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of Pennsylvania is proposed in accordance with Article XI:

That Article I be amended by adding a section to read:

§ 9.1. Rights of victims of crime.

(a) To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, as further provided and as defined by the General Assembly, which shall be protected in a manner no less vigorous than the rights afforded to the accused: to be treated with fairness and respect for the victim's safety, dignity and privacy; to have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the accused; to reasonable and timely notice of and to be present at all public proceedings involving the criminal or delinquent conduct; to be notified of any pretrial disposition of the case; with the exception of grand jury proceedings, to be heard in any proceeding where a right of the victim is implicated, including, but not limited to, release, plea, sentencing, disposition, parole and pardon; to be notified of all parole procedures, to participate in the parole process, to provide information to be considered before the parole of the offender, and to be notified of the parole of the offender; to reasonable protection from the accused or any person acting on behalf of the accused; to reasonable notice of any release or escape of the accused; to refuse an interview, deposition or other discovery request made by the accused or any person acting on behalf of the accused; full and timely restitution from the person or entity convicted for the unlawful conduct; full and timely restitution as determined by the court in a juvenile delinquency proceeding; to the prompt return of property when no longer needed as evidence; to proceedings free from unreasonable delay and a prompt and final conclusion of the case and any related postconviction proceedings; to confer with the attorney for the government; and to be informed of all rights enumerated in this section.

(b) The victim or the attorney for the government upon request of the victim may assert in any trial or appellate court, or before any other authority, with jurisdiction over the case, and have enforced, the rights enumerated in this section and any other right afforded to the victim by law. This section does not grant the victim party status or create any cause of action for compensation or damages against the Commonwealth or any political subdivision, nor any officer, employee or agent of the Commonwealth or any political subdivision, or any officer or employee of the court.

(c) As used in this section and as further defined by the General Assembly, the term "victim" includes any person against whom the criminal offense or delinquent act is committed or who is directly harmed by the commission of the offense or act. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor or incapacitated victim.

Section 2. (a) Upon the first passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment.

(b) Upon the second passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment. The Secretary of the Commonwealth shall submit this proposed constitutional amendment to the qualified electors of this Commonwealth at the first primary, general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.