

State of North Dakota  
**OFFICE OF MANAGEMENT AND BUDGET**

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September 23, 2016

Sheila Sandness  
Legislative Council  
State Capitol  
Bismarck, ND 58505

Dear Sheila,

This is in response to your letter dated June 27, 2016, requesting OMB to determine the estimated fiscal impact of an initiated measure related to the rights of crime victims.

If approved by the voters in the November 2016 general election, the measure will become effective 30 days after the election. The fiscal impact for this initiated measure involves several state and local entities. The fiscal impact for the remainder of the 2015-17 biennium is \$1,156,846 and the fiscal impact for the 2017-19 biennium is \$3,966,330.

An explanation of each entity's fiscal impact for a complete biennium is attached.

If you have any questions, please contact me.

Sincerely,



Pam Sharp  
Director

	<p>The amendment language confers numerous rights which, effectively, would likely establish concomitant duties on the part of governmental entities involved in the criminal justice process. It is likely that if this constitutional amendment were enacted, there would eventually be a fact situation where the language "This section does not create any cause of action for damages against....any political subdivision of the State..." would be challenged in a lawsuit. We would estimate that defense costs incurred by the liability carrier of such a challenge, through appeal, could be in the \$100,000 range. If the defense were unsuccessful, of course, there would likely be ongoing additional financial implications, depending upon the terms of the decision, which cannot be estimated at this time.</p>	
Supreme Court		\$49,250
	<p>Additional costs could be incurred for jury fees, mileage, bailiffs, amenities, and interpreters.</p>	
Commission on Legal Counsel for Indigents		\$916,500
	<p>Approximately 43 percent of the Commission's criminal case assignments involve victims. Additional costs could be incurred for additional preliminary hearings, jury trials, interpreter expenses, and orders to show cause. In addition, the Commission could see lower collections of fees due to victim restitution being a higher priority. The failure to pay victim restitution could result in more probation revocation hearings.</p>	
Department of Corrections and Rehabilitation		\$768,633
	<p>The Department of Corrections and Rehabilitation's ability to collect from incarcerated individuals or those on supervision would be impacted if that person owes money on a victim restitution order. In addition, the department would need to modify the offender management system to allow for the determination of billing eligibility.</p>	
Protection and Advocacy		\$426,566
	<p>The agency would need additional staff and funding for contracted services to educate and represent victims with disabilities and to provide benefits planning in the event restitution payments are awarded.</p>	
Total estimated impact for a biennium		\$3,966,330

**INITIATIVE PETITION  
TO THE SECRETARY OF STATE,  
STATE OF NORTH DAKOTA**

We, the undersigned, being qualified electors request the following initiated law be placed on the ballot as provided by law.

**SPONSORING COMMITTEE**

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Kathleen M. Wrigley, Chairperson  
1443 Eagle Crest Loop  
Bismarck ND 58503

Amy Nitschke  
2011 Laforest Ave #5  
Bismarck ND 58503

Rachael Bucholz  
3340 Doubleday Drive  
Bismarck ND 58503

Amy Warnke  
2552 15th Ave NE  
Emerado ND 58228

Jane Greer  
1527 Northview Lane  
Bismarck ND 58501

Jessica K. Unruh  
2108 7th St. NE  
Beulah ND 58523

Nicole Peske  
715 Cody Dr.  
Bismarck ND 58503

Jonathan D. Krantz  
250 57th Ave NW  
Bismarck ND 58503

Robert W. Rost  
735 Central Plains Court  
Grand Forks ND 58201

Susan R. Schneider  
1342 Prairie View Drive  
Bismarck ND 58501

Tiffany Sundeen  
3909 21st St S  
Fargo ND 58104

Pamela Perleberg  
6030 23rd St. S  
Fargo ND 58104

Coletta German  
9465 West Ridge Rd  
Hankinson ND 58041

Cassi Bernier  
307 Main Street East, P.O. Box 854  
Cavalier ND 58237

Gail Mooney  
680 166 Ave NE  
Cummings ND 58223

Darla Juma  
504 1st St. NW, P.O. Box 1203  
Stanley ND 58784

Mary Tello Pool  
513 Aspen Ave  
Bismarck ND 58503

Karen K. Krebsbach  
1715 6th St. NW  
Minot ND 58703

Laurie M. Kirby  
328 Napa Loop  
Bismarck ND 58504

Barbara A. Grande  
2405 Evergreen Rd.  
Fargo ND 58102

Randall J. Upgren  
4335 Gettysburg Dr.  
Bismarck ND 58504

Pat D. Heinert  
P.O. Box 1416  
Bismarck ND 58502

Tom Henning  
917 8th Street East  
Dickinson ND 58601

Andy Peterson  
2022 North 3rd St.  
Bismarck ND 58501

Jonathan D. Casper  
4040 42nd St. S, Unit 330  
Fargo ND 58104

Shane C. Goettle  
4586 Prairie Rose Circle  
Mandan ND 58554

Julie Rostvet  
307 Park Avenue South  
Park River ND 58270

Paul D. Laney  
668 13th Ave E  
West Fargo ND 58078

Diane Zainhofsky  
1509 North 15th St  
Bismarck ND 58501

## PETITION TITLE

This initiated measure would add a new section to Article I of the North Dakota Constitution to provide a number of rights for victims of crimes in this state in a manner no less vigorous than protections afforded to criminal defendants, including the rights of crime victims to be treated with respect, to be free from harassment, and to be protected from the accused. The measure would provide for the safety of crime victims in bail and release decisions and in protecting information that might be used to harass or locate crime victims. Crime victims would have the right to be present at certain court and related proceedings and to be heard concerning such matters as release, plea or sentencing of the accused, and parole and pardon matters and to be notified of any release or escape of the accused. Crime victims would have the right to provide information about the impact of the offender's conduct and to receive relevant reports or records including pre-sentence reports. The measure would also require prompt return of victims' property when no longer needed and to timely restitution.

## FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:**

SECTION 1. A new Section to Article I of the North Dakota Constitution is created and enacted as follows:

To preserve and protect the right of crime victims to justice, to ensure crime victims a meaningful role throughout the criminal and juvenile justice systems, and to ensure that crime victims' rights and interests are respected and protected by law in a manner no less vigorous than the protections afforded to criminal defendants and delinquent children, all victims shall be entitled to the following rights, beginning at the time of their victimization:

The right to be treated with fairness and respect for the victim's dignity.

The right to be free from intimidation, harassment and abuse.

The right to be reasonably protected from the accused and any person acting on behalf of the accused.

The right to have the safety and welfare of the victim and the victim's family considered when setting bail or making release decisions.

The right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family, or which could disclose confidential or privileged information about the victim, and to be notified of any request for such information or records.

The right to privacy, which includes the right to refuse an interview, deposition or other discovery request made by the defendant, the defendant's attorney, or any person acting on behalf of defendant, and to set reasonable conditions on the conduct of any such interaction to which the victim consents. Nothing in this section shall abrogate a defendant's Sixth Amendment rights under the United States Constitution nor diminish the State's disclosure obligations to a defendant.

The right to reasonable, accurate and timely notice of, and to be present at, all proceedings involving the criminal or delinquent conduct, including release, plea, sentencing, adjudication and disposition, and any proceeding during which a right of the victim is implicated.

The right to be promptly notified of any release or escape of the accused.

The right to be heard in any proceeding involving release, plea, sentencing, adjudication, disposition or parole, and any proceeding during which a right of the victim is implicated.

The right, upon request, to confer with the attorney for the government.

The right to provide information regarding the impact of the offender's conduct on the victim and the victim's family to the individual responsible for conducting any pre-sentence or disposition investigation or compiling any pre-sentence investigation report or recommendation regarding, and to have any such information considered in any sentencing or disposition recommendations.

The right, upon request, to receive a copy of any report or record relevant to the exercise of a victim's right, except for those portions made confidential by law or unless a court determines disclosure would substantially interfere with the investigation of a case, and to receive a copy of any pre-sentence report or plan of disposition when available to defendant or delinquent child.

The right, upon request, to the prompt return of the victim's property when no longer needed as evidence in the case.

The right to full and timely restitution in every case and from each offender for all losses suffered by the victim as a result of the criminal or delinquent conduct. All monies and property collected from any person who has been ordered to make restitution shall be first applied to the restitution owed to the victim before paying any amounts owed to the government.

The right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related post-judgment proceedings.

The right, upon request, to be informed of the conviction, adjudication, sentence, disposition, place and time of incarceration, detention or other disposition of the offender, any scheduled release date of the offender, and the release of or the escape by the offender from custody or commitment.

The right, upon request, to be informed in a timely manner of all post-judgment processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender. The parole authority shall extend the right to be heard to any person harmed by the offender.

The right, upon request, to be informed in a timely manner of any pardon, commutation, reprieve or expungement procedures, to provide information to the Governor, the court, any pardon board and other authority in these procedures, and to have that information considered before a decision is made, and to be notified of such decision in advance of any release of the offender.

The right to be informed of these rights, and to be informed that victims can seek the advice of an attorney with respect to their rights. This information shall be made available to the general public and provided to all crime victims in what is referred to as a Marsey's Card.

The victim, the retained attorney of the victim, a lawful representative of the victim, or the attorney for the government upon request of the victim may assert and seek enforcement of the rights enumerated in this section and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, ensuring that no right is deprived without due process of law, and affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding disposition of a victim's right shall be clearly stated on the record.

The granting of these rights to victims shall not be construed to deny or disparage other rights possessed by victims. All provisions of this section apply throughout criminal and juvenile justice processes and are self-enabling. This section does not create any cause of action for damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court.

As used in this section, a "victim" is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. If a victim is deceased, incompetent, incapacitated, or a minor, the victim's spouse, parent, grandparent, child, sibling, grandchild, or guardian, and any person with a relationship to the victim that is substantially similar to a listed relationship, may also exercise these rights. 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.