

ENROLLED SENATE JOINT RESOLUTION 46

ENACTED BY THE 1ST REGULAR SESSION OF THE
56TH LEGISLATURE OF THE STATE OF OKLAHOMA
NUMBERED BY THE SECRETARY OF STATE

STATE QUESTION NUMBER 794

LEGISLATIVE REFERENDUM NUMBER 371

RECEIVED: 04/05/2017

Resolution

ENROLLED SENATE
JOINT
RESOLUTION NO. 46

By: Sykes and Griffin of the
Senate

and

Biggs, Downing, McDugle,
McBride, Cockroft, Jordan
and Nollan of the House

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to Section 34 of Article II of the Oklahoma Constitution; expanding certain rights of victims of criminal acts; requiring enforcement of certain rights; defining term; modifying certain legislative authority; providing ballot title; and directing filing.

SUBJECT: Crime victim's rights

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE 1ST SESSION OF THE 56TH OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to Section 34 of Article II of the Oklahoma Constitution to read as follows:

Section 34. A. ~~To preserve and protect the rights of victims to justice and due process, and ensure that victims are treated with fairness, respect and dignity, and are free from intimidation, harassment, or abuse, throughout the criminal justice process, any victim or family member of a victim of a crime has the right to know the status of the investigation and prosecution of the criminal case, including all proceedings wherein a disposition of a case is~~

~~likely to occur, and where plea negotiations may occur. The victim or family member of a victim of a crime has the right to know the location of the defendant following an arrest, during a prosecution of the criminal case, during a sentence to probation or confinement, and when there is any release or escape of the defendant from confinement. The victim or family member of a victim of a crime has a right to be present at any proceeding where the defendant has a right to be present, to be heard at any sentencing or parole hearing, to be awarded restitution by the convicted person for damages or losses as determined and ordered by the court, and to be informed by the state of the constitutional rights of the victim.~~

~~B. An exercise of any right by a victim or family member of a victim or the failure to provide a victim or family member of a victim any right granted by this section shall not be grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.~~

C. To secure justice and due process for victims throughout the criminal and juvenile justice systems, a victim of a crime shall have the following rights, which shall be protected by law 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; upon request, to reasonable and timely notice of and to be present at all proceedings involving the criminal or delinquent conduct; to be heard in any proceeding involving release, plea, sentencing, disposition, parole and any proceeding during which a right of the victim is implicated; to reasonable protection; upon request, to reasonable notice of any release or escape of an accused; to refuse an interview or other request made by the accused or any person acting on behalf of the accused, other than a refusal to appear if subpoenaed by defense counsel; to full and timely restitution; to proceedings free from unreasonable delay and a prompt conclusion of the case; upon request, to confer with the attorney for the state; and to be informed of all rights enumerated in this section.

B. The victim, the victim's attorney or other lawful representative, or the attorney for the state 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. The court or other authority with jurisdiction shall act promptly on such a request. This section does not create any cause of action for compensation or 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.

C. As used in this section, a "victim" includes any person against whom the criminal offense or delinquent act is committed or who is directly and proximately 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.

D. The Legislature, or the people by initiative or referendum, has the authority to enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings and if enacted by the Legislature, youthful offender proceedings.

~~D.~~ E. The enumeration in the Constitution of certain rights for victims shall not be construed to deny or disparage other rights granted guaranteed by the Legislature or retained by victims.

SECTION 2. The Ballot Title for the proposed Constitutional amendment as set forth in SECTION 1 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. 371

State Question No. 794

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure would amend the Oklahoma Constitution. It would amend Section 34 of Article 2. This section provides rights for crime victims. This measure would expand rights of crime victims. It requires crime victims to be informed of their rights. It requires courts to enforce these rights.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES _____

AGAINST THE PROPOSAL - NO _____

SECTION 3. The President Pro Tempore of the Senate shall, immediately after the passage of this resolution, prepare and file one copy thereof, including the Ballot Title set forth in SECTION 2 hereof, with the Secretary of State and one copy with the Attorney General.

Passed the Senate the 21st day of March, 2017.

Eddie Finkel
Presiding Officer of the Senate

Passed the House of Representatives the 4th day of April, 2017.

James W. Murkey
Presiding Officer of the House
of Representatives

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 5th
day of April, 20 17, at 2:48 o'clock P. M.
By: Dave Jorg

From: SOS ExecutiveLegislative
To: Cara Rodriguez; mike.hunter@oag.ok.gov (Mike.Hunter@oag.ok.gov); Rhonda Geller
Cc:
Subject: State Question 794, Legislative Referendum 371 (SJR46 - Crime Victims Rights)

Sent: Wed 4/5/2017 4:42 PM

Message SQ794 LR371.pdf (187 KB)



Dave Lopez
Secretary of State

Mary Fallin
Governor

OKLAHOMA SECRETARY OF STATE

April 5, 2017

Hand Delivered

The Honorable Mike Hunter
Oklahoma State Attorney General
313 NE 21st Street
Oklahoma City, Oklahoma 73105

Re: State Question 794, Legislative Referendum 371
Subject: Crime Victims Rights

Dear Attorney General Hunter:

You are hereby notified that Enrolled Senate Joint Resolution 46 was received in the Office of the Secretary of State on April 5, 2017. This resolution has been designated as **State Question Number 794, Legislative Referendum Number 371.**

Pursuant to 34 O.S. §9(C), this office is submitting the proposed ballot title to you for review. Please find enclosed a true and exact copy of Enrolled Senate Joint Resolution 46 on record with the Secretary of State.

If our office may be of any further assistance, please let us know.

Sincerely,

Dave Lopez
Secretary of State

From: Merrill Williamson <merrill.williamson@oag.ok.gov> on behalf of Mike Hunter
<mike.hunter@oag.ok.gov>
To: SOS ExecutiveLegislative
Sent: Wednesday, April 05, 2017 4:55 PM
Subject: Read: State Question 794, Legislative Referendum 371 (SJR46 - Crime Victims Rights)

Your message

To:
Subject: State Question 794, Legislative Referendum 371 (SJR46 - Crime Victims Rights)
Sent: Wednesday, April 05, 2017 4:55:24 PM (UTC-06:00) Central Time (US & Canada)

was read on Wednesday, April 05, 2017 4:55:20 PM (UTC-06:00) Central Time (US & Canada).

Dave Lopez
Secretary of State



Mary Fallin
Governor

OKLAHOMA SECRETARY OF STATE

April 5, 2017

Inter Agency mail
~~Hand Delivered~~

The Honorable Mike Hunter
Oklahoma State Attorney General
313 NE 21st Street
Oklahoma City, Oklahoma 73105

Re: State Question 794, Legislative Referendum 371
Subject: Crime Victims Rights

Dear Attorney General Hunter:

You are hereby notified that Enrolled Senate Joint Resolution 46 was received in the Office of the Secretary of State on April 5, 2017. This resolution has been designated as **State Question Number 794, Legislative Referendum Number 371.**

Pursuant to 34 O.S. §9(C), this office is submitting the proposed ballot title to you for review. Please find enclosed a true and exact copy of Enrolled Senate Joint Resolution 46 on record with the Secretary of State.

If our office may be of any further assistance, please let us know.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Lopez".

Dave Lopez
Secretary of State



MIKE HUNTER
ATTORNEY GENERAL

Dawn Elizabeth Cash
First Assistant Attorney General

April 12, 2017

FILED

APR 12 2017

OKLAHOMA SECRETARY
OF STATE

Senator Mike Schulz
President Pro Tempore
Oklahoma Senate
2300 N. Lincoln Blvd., Room 422
Oklahoma City, Oklahoma 73105

Representative Charles McCall
Speaker of the House of Representatives
2300 N. Lincoln Blvd., Room 401
Oklahoma City, Oklahoma 73105

Dave Lopez, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Suite 101
Oklahoma City, Oklahoma 73105

Senator Anthony Sykes
2300 N. Lincoln Blvd., Room 618
Oklahoma City, Oklahoma 73105

Representative Scott Biggs
2300 N. Lincoln Blvd., Room 244
Oklahoma City, Oklahoma 73105

Re: Ballot Title for State Question No. 794, Legislative Referendum No. 371

Dear Sirs:

In accordance with the provisions of 34 O.S.Supp.2015, § 9(C), we have reviewed the proposed ballot title for the above-referenced State Question and conclude that it does not comply with applicable laws because it does not completely explain the effects of the proposition in the following ways:

1. It does not explain what expanded rights crime victims will have under the amended constitutional provision;

2. It does not explain that victims' rights are to be protected in a manner equal to those of a criminal defendant;
3. It does not explain that victims' rights may be asserted by victims of a crime and other persons directly and proximately harmed by the commission of a crime; and
4. It does not explain that victims' rights will apply in juvenile proceedings.

Having found that the ballot title does not comply with applicable laws, we will, in accordance with the provisions of 34 O.S.Supp.2015, § 9(C), prepare a Preliminary Ballot Title that complies with the law and furnish a copy to each of you within ten (10) business days.

Sincerely,

A handwritten signature in black ink, appearing to read "Dawn Cash", with a stylized flourish at the end.

Dawn Cash
First Assistant Attorney General



MIKE HUNTER
ATTORNEY GENERAL

FILED

APR 26 2017

OKLAHOMA SECRETARY
OF STATE

Dawn Elizabeth Cash
First Assistant Attorney General

April 26, 2017

Senator Mike Schulz
President Pro Tempore
Oklahoma Senate
2300 N. Lincoln Blvd., Room 422
Oklahoma City, Oklahoma 73105

Representative Charles McCall
Speaker of the House of Representatives
2300 N. Lincoln Blvd., Room 401
Oklahoma City, Oklahoma 73105

Dave Lopez, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Suite 101
Oklahoma City, Oklahoma 73105

Senator Anthony Sykes
2300 N. Lincoln Blvd., Room 618
Oklahoma City, Oklahoma 73105

Representative Scott Biggs
2300 N. Lincoln Blvd., Room 244
Oklahoma City, Oklahoma 73105

Re: Preliminary Ballot Title for State Question No. 794, Legislative Referendum No. 371

Dear Sirs:

On April 12, 2017, we notified you that the proposed ballot title for the above-referenced State Question did not comply with the requirements of 34 O.S.2011, § 9(C). In accordance with Section 9(C), we have prepared the following Preliminary Ballot Title. As a Title 34 ballot title review, the following does not constitute an Attorney General Opinion on the merits or constitutionality of the underlying changes in the law, nor on the ability of federal law to preempt the changes in law. The Preliminary Ballot Title reads as follows:

PRELIMINARY BALLOT TITLE FOR STATE QUESTION NO. 794

This measure amends Article 2, Section 34 of the Oklahoma Constitution, which guarantees certain rights for crime victims. The measure would make changes to these rights, including:

- (1) expanding the court proceedings at which victims have the right to be heard;
- (2) adding a right to reasonable protection;
- (3) adding a right to proceedings free from unreasonable delay;
- (4) adding a right to talk with the prosecutor; and
- (5) allowing victims to refuse interview requests from the defendant without a subpoena.

The Oklahoma Constitution currently grants victims' rights to crime victims and their family members. This measure would instead grant these rights to crime victims and those directly harmed by the crime. Victims would no longer have a constitutional right to know the defendant's location following arrest, during prosecution, and while sentenced to confinement or probation, but would have the right to be notified of the defendant's release or escape from custody.

Under this measure, victims would have these rights in both adult and juvenile proceedings. Victims' rights would be protected in a manner equal to the rights of the defendant. Victims would be able to assert these rights in court and the court would be required to act promptly.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL – YES

AGAINST THE PROPOSAL – NO

Respectfully submitted,



Dawn Cash
First Assistant Attorney General



MIKE HUNTER
ATTORNEY GENERAL

Dawn Elizabeth Cash
First Assistant Attorney General

May 17, 2017

Senator Mike Schulz
President Pro Tempore
Oklahoma Senate
2300 N. Lincoln Blvd., Room 422
Oklahoma City, Oklahoma 73105

Representative Charles McCall
Speaker of the House of Representatives
2300 N. Lincoln Blvd., Room 401
Oklahoma City, Oklahoma 73105

Dave Lopez, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Suite 101
Oklahoma City, Oklahoma 73105

Senator Anthony Sykes
2300 N. Lincoln Blvd., Room 618
Oklahoma City, Oklahoma 73105

Representative Scott Biggs
2300 N. Lincoln Blvd., Room 244
Oklahoma City, Oklahoma 73105

Re: Final Ballot Title for State Question No. 794, Legislative Referendum No. 371

Dear Sirs:

On April 12, 2017, we notified you that the proposed ballot title for the above-referenced State Question did not comply with the requirements of 34 O.S.2011, § 9(C), and on April 26, 2017, we prepared a preliminary ballot title in accordance with that Section. We have now prepared the following Final Ballot Title also in accordance with Section 9(C). As a Title 34 ballot title review, the following does not constitute an Attorney General Opinion on the merits or constitutionality

FILED

MAY 17 2017

OKLAHOMA SECRETARY
OF STATE



of the underlying changes in the law, nor on the ability of federal law to preempt the changes in law. The Final Ballot Title reads as follows:

FINAL BALLOT TITLE FOR STATE QUESTION NO. 794

This measure amends the provision of the Oklahoma Constitution that guarantees certain rights for crime victims. These rights would now be protected in a manner equal to the defendant's rights. The measure would also make changes to victims' rights, including:

- (1) expanding the court proceedings at which a victim has the right to be heard;
- (2) adding a right to reasonable protection;
- (3) adding a right to proceedings free from unreasonable delay;
- (4) adding a right to talk with the prosecutor; and
- (5) allowing victims to refuse interview requests from the defendant's attorney without a subpoena.

The Oklahoma Constitution currently grants victims' rights to crime victims and their family members. This measure would instead grant these rights to crime victims and those directly harmed by the crime. Victims would no longer have a constitutional right to know the defendant's location following arrest, during prosecution, and while sentenced to confinement or probation, but would have the right to be notified of the defendant's release or escape from custody.

Under this measure, victims would have these rights in both adult and juvenile proceedings. Victims would be able to assert these rights in court and the court would be required to act promptly.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL – YES

AGAINST THE PROPOSAL – NO

Respectfully submitted,



Dawn Cash
First Assistant Attorney General

Dave Lopez
Secretary of State



Mary Fallin
Governor

OKLAHOMA SECRETARY OF STATE

May 18, 2017



The Honorable Paul Ziriach
Secretary, State Election Board
State Capitol, Room B-6
Oklahoma City, Oklahoma 73105

Re: State Question 794, Legislative Referendum 371 (SJR 46)
Subject: Crime victim's rights

Dear Secretary Ziriach:

In accordance with the provisions of 34 O.S. § 9(C)(2), I herewith transmit State Question 794, Legislative Referendum 371 and attest that the enclosed copy of Senate Joint Resolution 46 is a true and accurate copy of the measure on record with this office. Also enclosed is the Final Ballot Title as prepared by the Attorney General.

If our office may be of any further assistance, please do let us know.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Lopez".

Dave Lopez
Secretary of State



Dave Lopez
Secretary of State

Mary Fallin
Governor

OKLAHOMA SECRETARY OF STATE

May 18, 2017

RECEIVED

MAY 18 2017

OFFICE OF THE
GOVERNOR

The Honorable Mary Fallin
Governor, State of Oklahoma
State Capitol, Room 212
Oklahoma City, Oklahoma 73105

Re: State Question 794, Legislative Referendum 371 (SJR 46)
Subject: Crime victim's rights

Dear Governor Fallin:

Pursuant to 34 O.S. § 9(C)(2), the Secretary of State has transmitted to the Secretary of the State Election Board an attested copy of the above referenced measure and a copy of the Attorney General's Final Ballot Title. Please find enclosed a true and accurate copy of SJR 46, as recorded in this office, a copy of the transmittal letter addressed to the Secretary of the State Election Board, and a true and accurate copy of the Attorney General's Final Ballot Title on record with this office.

If there are any questions, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Lopez".

Dave Lopez
Secretary of State

JAN 22 2018

OKLAHOMA SECRETARY
OF STATE

Mary Fallin
Governor

**EXECUTIVE DEPARTMENT
EXECUTIVE PROCLAMATION**

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the provisions of Section 3 of Article V and Section 1 of Article XXIV of the Oklahoma Constitution, Section 12 of Title 34 of the Oklahoma Statutes, and the referral by the Secretary of State, do hereby declare that Legislative Referendum Number 371, State Question 794, be submitted to qualified electors of the State of Oklahoma for their approval or rejection at the general election to be held statewide on November 6, 2018.

The substance of the measure is as follows:

This measure amends Article II, Section 34 of the Oklahoma Constitution to expand victim's rights to include notice of related court proceedings, right to be heard at sentencing or other disposition proceedings, right to a prompt conclusion of the criminal proceedings, and other enumerated rights.

Copies of this Executive Proclamation shall be delivered to the Secretary of State, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Secretary of the State Election Board.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma this 22 day of January, 2018.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

A handwritten signature of Mary Fallin in cursive script, written over a horizontal line.
MARY FALLIN

ATTEST

The seal of the Secretary of State of Oklahoma, featuring a five-pointed star with a smaller star in the center, surrounded by a circular border with the words "SEAL OF THE SECRETARY OF STATE OF OKLAHOMA".
DAVE LOPEZ, SECRETARY OF STATE