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CRC ACTION

Commissioner .  
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Floor: 1/AD .  
03/20/2018 03:31 PM .  
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Commissioner Cerio moved the following:

**CRC Amendment (with title amendment)**

Delete everything after the proposal clause  
and insert:

Section 16 of Article I of the State Constitution is  
amended to read:

ARTICLE I

DECLARATION OF RIGHTS

SECTION 16. Rights of accused and of victims.—

(a) In all criminal prosecutions the accused shall, upon  
demand, be informed of the nature and cause of the accusation,



12 and shall be furnished a copy of the charges, and shall have the  
13 right to have compulsory process for witnesses, to confront at  
14 trial adverse witnesses, to be heard in person, by counsel or  
15 both, and to have a speedy and public trial by impartial jury in  
16 the county where the crime was committed. If the county is not  
17 known, the indictment or information may charge venue in two or  
18 more counties conjunctively and proof that the crime was  
19 committed in that area shall be sufficient; but before pleading  
20 the accused may elect in which of those counties the trial will  
21 take place. Venue for prosecution of crimes committed beyond the  
22 boundaries of the state shall be fixed by law.

23 (b) To preserve and protect the right of crime victims to  
24 achieve justice, ensure a meaningful role throughout the  
25 criminal and juvenile justice systems for crime victims, and  
26 ensure that crime victims' rights and interests are respected  
27 and protected by law in a manner no less vigorous than  
28 protections afforded to criminal defendants and juvenile  
29 delinquents, every victim is entitled to the following rights,  
30 beginning at the time of his or her victimization:

31 (1) The right to due process and to be treated with  
32 fairness and respect for the victim's dignity.

33 (2) The right to be free from intimidation, harassment, and  
34 abuse.

35 (3) The right, within the judicial process, to be  
36 reasonably protected from the accused and any person acting on  
37 behalf of the accused. However, nothing contained herein is  
38 intended to create a special relationship between the crime  
39 victim and any law enforcement agency or office absent a special  
40 relationship or duty as defined by Florida law.



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41           (4) The right to have the safety and welfare of the victim  
42 and the victim's family considered when setting bail, including  
43 setting pretrial release conditions that protect the safety and  
44 welfare of the victim and the victim's family.

45           (5) The right to prevent the disclosure of information or  
46 records that could be used to locate or harass the victim or the  
47 victim's family, or which could disclose confidential or  
48 privileged information of the victim.

49           (6) The right to privacy, which includes the right to  
50 refuse an interview, deposition, or other discovery request by  
51 the defense or anyone acting on behalf of the defendant and to  
52 set reasonable conditions on the conduct of any such interaction  
53 to which the victim consents.

54           (7) A victim shall have the following specific rights upon  
55 request:

56           a. The right to reasonable, accurate, and timely notice of,  
57 and to be present at, all public proceedings involving the  
58 criminal conduct, including, but not limited to, trial, plea,  
59 sentencing, or adjudication, even if the victim will be a  
60 witness at the proceeding, notwithstanding any rule to the  
61 contrary. A victim shall also be provided reasonable, accurate,  
62 and timely notice of any release or escape of the defendant or  
63 delinquent, and any proceeding during which a right of the  
64 victim is implicated.

65           b. The right to be heard in any public proceeding involving  
66 pretrial or other release from any form of legal constraint,  
67 plea, sentencing, adjudication, or parole, and any proceeding  
68 during which a right of the victim is implicated.

69           c. The right to confer with the prosecuting attorney



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70 concerning any plea agreements, participation in pretrial  
71 diversion programs, release, restitution, sentencing, or any  
72 other disposition of the case.

73 d. The right to provide information regarding the impact of  
74 the offender's conduct on the victim and the victim's family to  
75 the individual responsible for conducting any presentence  
76 investigation or compiling any presentence investigation report,  
77 and to have any such information considered in any sentencing  
78 recommendations submitted to the court.

79 e. The right to receive a copy of any presentence report,  
80 and any other report or record relevant to the exercise of a  
81 victim's right, except for such portions made confidential or  
82 exempt by law.

83 f. The right to be informed of the conviction, sentence,  
84 adjudication, place and time of incarceration, or other  
85 disposition of the convicted offender, any scheduled release  
86 date of the offender, and the release of or the escape of the  
87 offender from custody.

88 g. The right to be informed of all postconviction processes  
89 and procedures, to participate in such processes and procedures,  
90 to provide information to the release authority to be considered  
91 before any release decision is made, and to be notified of any  
92 release decision regarding the offender. The parole or early  
93 release authority shall extend the right to be heard to any  
94 person harmed by the offender.

95 h. The right to be informed of clemency and expungement  
96 procedures, to provide information to the governor, the court,  
97 any clemency board, and other authority in these procedures, and  
98 to have that information considered before a clemency or



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99 expungement decision is made; and to be notified of such  
100 decision in advance of any release of the offender.

101 (8) The rights of the victim, as provided in subparagraph  
102 (7)a., subparagraph (7)b., or subparagraph (7)c., that apply to  
103 any first appearance proceeding are satisfied by a reasonable  
104 attempt by the appropriate agency to notify the victim and  
105 convey the victim's views to the court.

106 (9) The right to the prompt return of the victim's property  
107 when no longer needed as evidence in the case.

108 (10) The right to full and timely restitution in every case  
109 and from each convicted offender for all losses suffered, both  
110 directly and indirectly, by the victim as a result of the  
111 criminal conduct.

112 (11) The right to proceedings free from unreasonable delay,  
113 and to a prompt and final conclusion of the case and any related  
114 postjudgment proceedings.

115 a. The state attorney may file a good faith demand for a  
116 speedy trial and the trial court shall hold a calendar call,  
117 with notice, within fifteen days of the filing demand, to  
118 schedule a trial to commence at a date at least five days but no  
119 more than sixty days after the date of the calendar call unless  
120 the trial judge enters an order with specific findings of fact  
121 justifying a trial date more than sixty days after the calendar  
122 call.

123 b. All state-level appeals and collateral attacks on any  
124 judgment must be complete within two years from the date of  
125 appeal in non-capital cases and five years in capital cases,  
126 unless a court enters an order with specific findings as to why  
127 the court was unable to comply with this subparagraph and the



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128 circumstances causing the delay. Each year, the chief judge of  
129 any district court of appeal or the chief justice of the supreme  
130 court shall report on a case-by-case basis to the speaker of the  
131 house of representatives and the president of the senate all  
132 cases where the court entered an order regarding inability to  
133 comply with this subparagraph. The legislature may enact  
134 legislation to implement this subparagraph.

135 (12) The right to be informed of these rights, and to be  
136 informed that victims can seek the advice of an attorney with  
137 respect to their rights. This information shall be made  
138 available to the general public and provided to all crime  
139 victims in the form of a card, or other means that is intended  
140 to effectively advise the victim of their rights under this  
141 section.

142 (c) The victim, the retained attorney of the victim, a  
143 lawful representative of the victim, or the office of the state  
144 attorney upon request of the victim, may assert and seek  
145 enforcement of the rights enumerated in this section and any  
146 other right afforded to a victim by law in any trial or  
147 appellate court, or before any other authority with jurisdiction  
148 over the case, as a matter of right. The court or other  
149 authority with jurisdiction shall act promptly on such a  
150 request, affording a remedy by due course of law for the  
151 violation of any right. The reasons for any decision regarding  
152 the disposition of a victim's right shall be clearly stated on  
153 the record.

154 (d) The granting of these rights enumerated in this section  
155 to victims may not be construed to deny or impair any other  
156 rights possessed by victims. The provisions of this section



157 apply throughout criminal and juvenile justice processes are  
158 self-executing and do not require implementing legislation. This  
159 section may not be construed to create any cause of action for  
160 damages against the state or a political subdivision of the  
161 state, or any officer, employee, or agent of the state or its  
162 political subdivisions.

163 (e) As used in this section, a "victim" is a person who  
164 suffers direct or threatened physical, psychological, or  
165 financial harm as a result of the commission or attempted  
166 commission of a crime or delinquent act or against whom the  
167 crime or delinquent act is committed. The term "victim" includes  
168 the victim's lawful representative, the parent or guardian of a  
169 minor, or the next of kin of a homicide victim, except upon a  
170 showing that the interest of such individual would be in actual  
171 or potential conflict with the interests of the victim. The term  
172 "victim" does not include the accused. The terms "crime" and  
173 "criminal" include delinquent acts and conduct  
174 ~~Victims of crime~~  
175 ~~or their lawful representatives, including the next of kin of~~  
176 ~~homicide victims, are entitled to the right to be informed, to~~  
177 ~~be present, and to be heard when relevant, at all crucial stages~~  
178 ~~of criminal proceedings, to the extent that these rights do not~~  
179 ~~interfere with the constitutional rights of the accused.~~

180 ===== T I T L E A M E N D M E N T =====

181 And the title is amended as follows:

182 Delete everything before the proposal clause  
183 and insert:

184 A proposal to amend  
185 Section 16 of Article I of the State Constitution to



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revise and establish additional rights of victims of  
crimes.