



Legislation Text

File #: R-1718-104, **Version:** 1

RESOLUTION R-1718-104: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, EXPRESSING SUPPORT FOR STATE QUESTION 794 (SQ 794), ALSO KNOWN AS MARSY'S LAW FOR OKLAHOMA, THE PROPOSED AMENDMENT TO THE OKLAHOMA CONSTITUTION PROPOSING EXPANSION OF CRIME VICTIMS' RIGHTS, REQUIRING CRIME VICTIMS TO BE INFORMED OF THEIR RIGHTS, AND REQUIRING COURTS TO ENFORCE THESE RIGHTS; AND URGING ALL REGISTERED VOTERS WITHIN THE CITY OF NORMAN TO CONSIDER THE HEALTH, SAFETY, AND WELFARE OF NORMAN RESIDENTS AND TO VOTE ON STATE QUESTION 794 ON NOVEMBER 6, 2018.

BACKGROUND: In 1983 Marsalee (Marsy) Nicholas was shot and killed by her ex-boyfriend in California in 1983. Days after the murder, the accused killer, who would later be convicted of second-degree murder, was out on bail and confronted Marsy's mother and brother at a grocery store. At that time, the family wasn't aware the accused had been released. Marsy's brother, Henry Nicholas, made it his personal mission to require that crime victims receive notification of similar decisions and other rights promoted by Marsy's Law. Mr. Nicholas founded Marsy's Law for All in 2009, whose goal is to add victims' rights to all state constitutions that currently lack them and eventually secure an amendment to the U.S. Constitution. The Oklahoma Legislature passed Senate Joint Resolution (SJR) 46 on March 21, 2017, which authorized a state wide vote amending Section 34 of Article II of the Oklahoma Constitution. The proposed amendment, known as State Question 794 (SQ 794), will be on the ballot on November 6, 2018. This item was requested by Council to given them an opportunity to determine whether a majority of Council would like to formally support the ballot measure.

DISCUSSION: SQ 794 expands rights of crime victims, requires crime victims to be informed of their rights, and requires courts to enforce these rights. The amendment would both reinforce and extend the rights of all crime victims to certain treatment, information, and restitution by the criminal justice system. The proposed amendment reads, in part, as follows:

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, pleas, 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.

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.

The Oklahoma Attorney General last year issued an opinion on April 17, 2017 concluding that an official's decision to vote for a city or municipal resolution supporting or opposing a State Question referred to a vote of the people is permissible under 26 O.S. § 16-119. 2017 OK AG 1. The AG Opinion specifically notes that neither the use of a public space to assemble the governing body for the purpose of conducting an official meeting nor the use of staff time to prepare or research a resolution constitutes an expenditure amounting to a public campaign supported by public funds regarding a

State Question but rather both are “at most ... ancillary to the mere expression of the collective viewpoint of a city council.” *Id.* at ¶ 16.

Council discussed this ballot measure at its Study Session held on April 3, 2018. Council asked that the Resolution included with this item be prepared to allow Council to formally express their collective viewpoint on the ballot measure through a public vote on the Resolution.

RECOMMENDATION: Based on the above discussion, Resolution R-1718-104 supporting Marsy’s Law in State Question 794 is presented for Council’s consideration.