



**TESTIMONY OF**

**WISCONSIN ATTORNEY GENERAL JAMES E. DOYLE**

**Before the United States Congress - Senate Judiciary Committee**

**RE: Victims' Rights Constitutional Amendment**

**April 16, 1997**

**Good Morning, Mr. Chairman and members of the committee.**

**I am Jim Doyle, the Attorney General of the State of Wisconsin. I am here today to testify in favor of a federal constitutional amendment which recognizes the fundamental right of crime victims to have access to the criminal justice process.**

**Over the last 20 years, since my days as a district attorney when I started a victim/witness program in 1978, I have watched the development of rights and services for victims of crime. I have seen prosecutors, judges and law enforcement officials become more sensitive to the needs of crime victims.**

**This increased awareness came, not because leaders in the criminal justice system were great visionaries, but because victims who were treated badly by the system demanded better treatment. Victims, advocates and family members who have fought for a voice in the criminal justice process should receive our respect for what they have endured and our thanks for enlightening us.**

**Due to the work of victims and their advocates, Wisconsin has a long history of recognizing and addressing the needs of victims of crime. One of the nation's first two victim/witness programs was started in Milwaukee in 1975 and we enacted the nation's first victims' bill of rights in 1980. Wisconsin was also one of the first states to amend its constitution to recognize crime victims' rights in 1993.**

**I believe that prosecutors today at the local, state and federal levels share a sincere appreciation for the critical role that victims play in ensuring that the criminal justice system functions to protect all of us. Those of us who are responsible for public safety should treat crime victims with fairness, dignity and respect. It is the right thing to do.**

**Respect for victims' rights also has improved our ability to fight crime. When victims are treated well by the criminal justice system, other victims are encouraged to report crimes and cooperate with law enforcement officers and prosecutors.**

**I am not appearing today on behalf of other state attorneys general or as an officer of the National Association of Attorneys General. Nevertheless, most prosecutors strongly support victims' rights. The issues that have been the focus of discussion with prosecutors have dealt with ensuring that an amendment does not diminish the discretion of prosecutors or their ability to carry out effectively their responsibility for enforcing the law.**

**Since others speaking before me today have addressed the need for crime victims' rights to be recognized in the U. S. Constitution, I will direct my remarks towards our experience in Wisconsin. I hope that what we have learned will assist you in your deliberations.**

**In my opinion, Wisconsin provides excellent services to victims of crime who need help with the criminal justice process. Most services are provided at the local level. We have local victim/witness assistance programs in 64 of Wisconsin's 72 counties. My office also provides services to victims through a statewide victim resource center. The center houses an advocate who informally handles complaints, answers questions and facilitates communications between victims and criminal justice**

officials.

**This week in Wisconsin, we are introducing new victims' rights legislation which will reinforce and interpret the rights laid out in our state constitution. Some of the issues we debated in developing this legislation are similar to those being discussed with respect to the federal amendment. I realize that what we believe is workable in Wisconsin may be unacceptable in another jurisdiction. Nevertheless, what we have introduced in Wisconsin represents consensus and compromise between the victim advocates and criminal justice representatives in our state and may be of value to you.**

**In most respects, Wisconsin's crime victims' rights amendment is broader than Senate Joint Resolution 6. In addition to the rights in SJR 6, our state constitution gives victims the right to confer with the prosecution, the right to receive compensation and requires that the legislature provide remedies to victims. The guiding philosophy is that government has a firm obligation to ensure that victims are adequately informed about their rights, but that all victims should be afforded the courtesy of deciding whether they wish to exercise those rights.**

**Wisconsin's constitution leaves it to the legislature to define who are "victims" and what constitutes "crime." SJR 6 applies to "victims of a crime of violence" and other crimes defined by congress.**

**In Wisconsin, we have given those definitions the broadest possible interpretation. Rights are extended not only to natural persons, but to businesses and even governmental entities against whom a crime has been committed. Victims also include the family members of deceased victims, and the parent or legal guardian of a child victim or an incapacitated victim. The only exclusion under our law is a person who is also charged with or is alleged to have committed the crime.**

**Crimes include all felonies and misdemeanors and the equivalent acts when committed by juveniles. We struggled with the expansiveness of that definition. However, we heard eloquent arguments from victims of sexual assault and other types of assault which are often charged as misdemeanors about the need to include victims of all crimes.**

**While our current statutes outline a victim's rights, they provide little in the way of accountability. Our new legislation clearly identifies who in the criminal justice system is responsible, what they must do and when they must do it.**

**The issue of enforcement of victims' rights has perhaps been the most challenging. Although we have made great progress in Wisconsin in assisting crime victims, there are still some individuals who do not understand that the constitutional rights of crime victims must be recognized and enforced. To address this problem, our bipartisan legislative proposal creates a state Victims' Rights Board which will receive and review complaints regarding violations of victims' rights.**

**The Board will have the power to issue public and private reprimands and bring civil forfeiture actions of up to \$1,000 for intentional violations of victims' rights. The Board also will have the authority to seek equitable relief on behalf of a victim, if necessary, to protect their rights. Needless to say, this proposal has made more than a few judges and prosecutors nervous.**

**Another major issue which is raised at both the state and federal level is the cost of enforcing victims' rights. In practice, the costs are largely associated with the notice requirements to victims. As the head of a state agency which provides most of the funding for our prosecutor-based victim services, I am quite sympathetic to this issue.**

**Historically, Wisconsin has been able to reimburse counties for 70 to 85% of the costs of their victim/witness services. Our current annual state appropriation for this purpose is just over \$4 million, much of which is paid through surcharges on criminals. This stable funding source has enabled us to significantly meet the needs of crime victims in our biggest cities, with overwhelming caseloads, and our most rural areas, with smaller numbers, but few resources.**

**In closing, I believe that we can achieve reasonable and workable approaches to the implementation of constitutional rights for crime victims. It is our duty to ensure that innocent victims of crime who have already suffered at the hands of a criminal do not suffer again because the criminal justice system does not care.**