NOTICE OF REFERENDUM ELECTION

APRIL 7, 2020

NOTICE IS HEREBY GIVEN, that at an election to be held in the several towns, villages, wards, and election districts of the State of Wisconsin, on Tuesday, April 7, 2020, the following question will be submitted to a vote of the people pursuant to law:

2019 ENROLLED JOINT RESOLUTION 3

To renumber and amend section 9m of article I; and ***to create*** section 9m (1) of article I, section 9m

a. of article I, section 9m (5) of article I and section 9m (6) of article I of the constitution; **relating to:** the rights of crime victims (second consideration).

Whereas, the 2017 legislature in regular session considered a proposed amendment to the constitution in 2017 Senate Joint Resolution 53, which became 2017 Enrolled Joint Resolution 13, and agreed to it by a majority of the members elected to each of the two houses, which proposed amendment reads as follows:

SECTION 1. Section 9m of article I of the constitution is renumbered section 9m. (2) (intro.) of article I and amended to read:

[Article I] Section 9m (2) (intro.) ~~This state shall treat crime victims, as defined by~~ ~~law, with fairness, dignity and respect for their privacy. This state shall ensure that crime~~ ~~victims have all of the following privileges and protections as provided by law:~~ <u>In order</u> <u>to preserve and</u>

protect victims' rights to justice and due process throughout the criminal and juvenile justice process, victims shall be entitled to all of the following rights, which shall vest at the time of victimization and be protected by law in a manner no less vigorous than the protections afforded to the accused:

(a) To be treated with dignity, respect, courtesy, sensitivity, and fairness.

(b) To privacy.

(c) To proceedings free from unreasonable delay.

(d) To timely disposition of the case~~; the opportunity to attend court~~, free from unreasonable delay.

(e) Upon request, to attend all proceedings ~~unless the trial court finds sequestration is necessary to a fair trial for the defendant;~~ involving the case.

(f) To reasonable protection from the accused throughout the criminal and juvenile justice process~~;~~.

(g) Upon request, to reasonable and timely notification of ~~court~~ proceedings~~; the opportunity to~~.

(h) Upon request, to confer with the ~~prosecution; the opportunity to make a statement to the court at disposition;~~ attorney for the government.

(i) Upon request, to be heard in any proceeding during which a right of the victim is implicated, including release, plea, sentencing, disposition, parole, revocation, expungement, or pardon.

(j) To have information pertaining to the economic, physical, and psychological effect upon the victim of the offense submitted to the authority with jurisdiction over the case and to have that information considered by that authority.

(k) Upon request, to timely notice of any release or escape of the accused or death of the accused if the

accused is in custody or on supervision at the time of death.

(L) To refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused.

1. To full restitution; from any person who has been ordered to pay restitution to the victim and to be provided with assistance collecting restitution.

2. To compensation~~; and~~ as provided by law.

3. Upon request, to reasonable and timely information about the status of the investigation and the outcome of the case ~~and the release of the accused~~.

4. To timely notice about all rights under this section and all other rights, privileges, or protections of the victim provided by law, including how such rights, privileges, or protections are enforced.

(3) Except as provided under sub. (2) (n), all provisions of this section are self–executing. The legislature ~~shall provide~~ may prescribe further remedies for the violation of this section~~. Nothing in this section, or in any statute enacted pursuant to this section, shall limit any right of the accused which may be provided by law.~~ and further procedures for compliance with and enforcement of this section.

SECTION 2. Section 9m (1) of article I of the constitution is created to read: [Article I] Section 9m (1) (a) In this section, notwithstanding any statutory right, privilege, or protection, "victim" means any of the following:

1. A person against whom an act is committed that would constitute a crime if committed by a competent adult.

2. If the person under subd. 1. is deceased or is physically or emotionally unable to exercise his or her rights under this section, the person's spouse, parent or legal

guardian, sibling, child, person who resided with the deceased at the time of death, or other lawful representative.

3. If the person under subd. 1. is a minor, the person's parent, legal guardian or custodian, or other lawful representative.

4. If the person under subd. 1. is adjudicated incompetent, the person's legal guardian or other lawful representative.

(b) "Victim" does not include the accused or a person who the court finds would not act in the best interests of a victim who is deceased, incompetent, a minor, or physically or emotionally unable to exercise his or her rights under this section.

SECTION 3. Section 9m (4) of article I of the constitution is created to read:

[Article I] Section 9m (4) (a) In addition to any other available enforcement of rights or remedy for a violation of this section or of other rights, privileges, or protections provided by law, the victim, the victim's attorney or other lawful representative, or the attorney for the government upon request of the victim may assert and seek in any circuit court or before any other authority of competent jurisdiction, enforcement of the rights in this section and any other right, privilege, or protection afforded to the victim by law. The court or other authority with jurisdiction over the case shall act promptly on such a request and afford a remedy for the violation of any right of the victim. The court or other authority with jurisdiction over the case shall clearly state on the record the reasons for any decision regarding the disposition of a victim's right and shall provide those reasons to the victim or the victim's attorney or other lawful representative.

(b) Victims may obtain review of all adverse decisions concerning their rights as victims by courts or other authorities with jurisdiction under par. (a) by filing petitions for supervisory writ in the court of appeals and supreme court.

SECTION 4. Section 9m (5) of article I of the constitution is created to read: [Article I] Section 9m

(5) 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 a political subdivision of the state acting in his or her official capacity; or any officer, employee, or agent of the courts acting in his or her official capacity.

SECTION 5. Section 9m (6) of article I of the constitution is created to read: [Article I] Section 9m

(6) This section is not intended and may not be interpreted to supersede a defendant's federal constitutional rights or to afford party status in a proceeding to any victim.

SECTION 6. Numbering of new provisions. If another constitutional amendment ratified by the people creates the number of any provision created in this joint resolution, the chief of the legislative reference bureau shall determine the sequencing and the numbering of the provisions whose numbers conflict.

Now, therefore, be it resolved by the senate, the assembly concurring, That the foregoing proposed amendment to the constitution is agreed to by the 2019 legislature; and, be it further

Resolved, That the foregoing proposed amendment to the constitution be submitted to a vote of the people at the election to be held on the first Tuesday in April 2020; and, be it further

Resolved, That the question concerning ratification of the foregoing proposed amendment to the constitution be stated on the ballot as follows:

QUESTION 1: "**Additional rights of crime victims.** Shall section 9m of article I of the constitution, which gives certain rights to crime victims, be amended to give crime victims additional rights, to require that the rights of crime victims be protected with equal force to the

protections afforded the accused while leaving the federal constitutional rights of the accused intact, and to allow crime victims to enforce their rights in court?"

EXPLANATION

The Wisconsin Constitution, article I, section 9m, currently provides that the state shall treat crime victims "with fairness, dignity and respect for their privacy." That provision also mandates that the state ensure that crime victims have certain "privileges and protections" relative to the accused and the criminal case. Separate from these constitutional provisions, chapter 950 of the Wisconsin Statutes provides a "bill of rights" for victims and witnesses of crimes.

The proposed amendment would make five general changes to article I, section 9m, of the Wisconsin Constitution.

First, in 16 subsections, the proposed amendment would expand the rights of victims by creating additional rights and incorporating other statutory rights into the constitution.

Second, the proposed amendment would incorporate into the constitution a definition of "victim" similar to the definition currently in statute.

Third, the proposed amendment would create an additional mechanism by which victims could enforce their rights as victims.

Fourth, the proposed amendment would incorporate into the constitution a limit on governmental liability for any violation of victims' rights, similar to the limit currently provided by statute.

Fifth, the proposed amendment would provide that it may not be interpreted to supersede a defendant's federal constitutional rights or afford party status in a proceeding to any victim.

A "yes" vote on this question would amend the Wisconsin Constitution as summarized above.

A "no" vote on this question would decline to amend the Wisconsin Constitution as summarized above. A "no" vote would not alter existing protections for crime victims.

DONE in the County of Dane
this 5th day of March, 2020.

Scott McDonell, Dane County Clerk

(Type C)