

ARTICLE I DECLARATION OF RIGHTS

Editor's Note

The amendment ratified by 1971 Act No 276 (1971 (57) 315) revised and rewrote this article, substituting present Section 1 to 23 for former Section 1 to 29. The amendment also transferred and renumbered the following sections of the former article: former Section 3 was transferred and renumbered as Section 1A of Article III; former Section 6 was transferred and renumbered as Section 3A of Article X; former Section 7 was transferred and renumbered as Section 3B of Article X; former Section 11 was transferred and renumbered as Section 1B of Article XVII; former Section 28 was transferred and renumbered as Section 4 of Article XIV. The provisions of former Section 9 of this article now appear in Section 1 of Article II, as amended by amendment ratified by 1971 Act No 277 (1971 (57) 319).

SECTION 1. Political power in people.

All political power is vested in and derived from the people only, therefore, they have the right at all times to modify their form of government. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are identical to former Section 1 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see former Art I, Section 1.

SECTION 2. Religious freedom; freedom of speech; right of assembly and petition.

The General Assembly shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the government or any department thereof for a redress of grievances. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are identical to former Section 4 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section 6, 7, 9, 10.

SECTION 3. Privileges and immunities; due process; equal protection of laws.

The privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are identical to former Section 5 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section 12.

SECTION 4. Attainder; ex post facto laws; impairment of contracts; titles; effect of conviction.

No bill of attainder, ex post facto law, law impairing the obligation of contracts, nor law granting any title of nobility or hereditary emolument, shall be passed, and no conviction shall work corruption of blood or forfeiture of estate. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are identical to former Section 8 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section 4, 21.

SECTION 5. Elections, free and open.

All elections shall be free and open, and every inhabitant of this State possessing the qualifications provided for in this Constitution shall have an equal right to elect officers and be elected to fill public office. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are identical to former Section 10 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const. 1868, Art I, Section 31.

SECTION 6. Residence.

Temporary absence from the State shall not forfeit a residence once obtained. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are identical to former Section 12 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section 35.

SECTION 7. Suspension of laws.

The power to suspend the laws shall be exercised only by the General Assembly or by its authority in particular cases expressly provided for by it. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are similar to former Section 13 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section 24.

SECTION 8. Separation of powers.

In the government of this State, the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are identical to former Section 14 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section 26.

SECTION 9. Courts; speedy remedy.

All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are identical to former Section 15 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section 15.

SECTION 10. Searches and seizures; invasions of privacy.

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures and unreasonable invasions of privacy shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, the person or thing to be seized, and the information to be obtained. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are similar to former Section 16 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section 22.

SECTION 11. Presentment or indictment.

No person may be held to answer for any crime the jurisdiction over which is not within the magistrate's court, unless on a presentment or indictment of a grand jury of the county where the crime has been committed, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger. The General Assembly may provide for the waiver of an indictment by the accused. Nothing contained in this Constitution is deemed to limit or prohibit the establishment by the General Assembly of a state grand jury with the authority to return indictments irrespective of the county where the crime has been committed and that other authority, including procedure, as the General Assembly may provide. (1970 (56) 2684; 1971 (57) 315; 1989 Act No. 5; 1989 Act No. 8.)

Editor's Note

The present provisions of this section are similar to former Section 17 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art 1, Section Section 18, 23.

SECTION 12. Double jeopardy; self-incrimination.

No person shall be subject for the same offense to be twice put in jeopardy of life or liberty, nor shall any person be compelled in any criminal case to be a witness against himself. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are similar to former Section 17 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const. 1868, Art 1, Section Section 18, 23.

SECTION 13. Taking private property; economic development; remedy of blight.

(A) Except as otherwise provided in this Constitution, private property shall not be taken for private use without the consent of the owner, nor for public use without just compensation being first made for the property. Private property must not be condemned by eminent domain for any purpose or benefit including, but not limited to, the purpose or benefit of economic development, unless the condemnation is for public use.

(B) For the limited purpose of the remedy of blight, the General Assembly may provide by law that private property constituting a danger to the safety and health of the community by reason of lack of ventilation, light, and sanitary facilities, dilapidation, deleterious land use, or any combination of these factors may be condemned by eminent domain without the consent of the owner and put to a public use or private use if just compensation is first made for the property. (1970 (56) 2684; 1971 (57) 315; 2007 Act No. 15.)

Editor's Note

The present provisions of this section are similar to former Section 17 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section Section 18, 23.

SECTION 14. Trial by jury; witnesses; defense.

The right of trial by jury shall be preserved inviolate. Any person charged with an offense shall enjoy the right to a speedy and public trial by an impartial jury; to be fully informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to be fully heard in his defense by himself or by his counsel or by both. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are similar to former Section Section 18 and 25 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section Section 11, 13.

SECTION 15. Right of bail; excessive bail; cruel or unusual or corporal punishment; detention of witnesses.

All persons shall be, before conviction, bailable by sufficient sureties, but bail may be denied to persons charged with capital offenses or offenses punishable by life imprisonment, or with violent offenses defined by the General Assembly, giving due weight to the evidence and to the nature and circumstances of the event. Excessive bail shall not be required, nor shall excessive fines be imposed, nor shall cruel, nor corporal, nor unusual punishment be inflicted, nor shall witnesses be unreasonably detained. (1970 (56) 2684; 1971 (57) 315; 1998 Act No. 259.)

SECTION 16. Libel.

In all indictments or prosecutions for libel, the truth of the alleged libel may be given in evidence, and the jury shall be the judges of the law and facts. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are identical to former Section 21 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section 8.

SECTION 17. Treason.

Treason against the State shall consist alone in levying war or in giving aid and comfort to enemies against the State. No person shall be held guilty of treason, except upon testimony of at least two witnesses to the same overt act, or upon confession in open court. (1970 (56) 2684; 1971 (57) 315; 2007 Act No. 15.)

Editor's Note

The present provisions of the first paragraph of this section are identical to former Section 22 of Article I as it existed prior to the 1971 revision. It would seem that the intention of the 1973 amendments relating to slum clearance (1970 (57) 1340; 1973 (58) 123) was to add the provisos of the second and third paragraphs of this section to Section 17 of this article as it existed prior to the 1971 revision. Similar paragraphs were transferred to Section 5 of Article XIV by the 1971 amendment which revised this article.

SECTION 18. Suspension of habeas corpus.

The privilege of the writ of habeas corpus shall not be suspended unless when, in case of insurrection, rebellion or invasion, the public safety may require it. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are identical to former Section 23 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section 17.

SECTION 19. Imprisonment for debt.

No person shall be imprisoned for debt except in cases of fraud. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are identical to former Section 24 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section 20.

SECTION 20. Right to keep and bear arms; armies; military power subordinate to civil authority; how soldiers quartered.

A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed. As, in times of peace, armies are dangerous to liberty, they shall not be maintained without the consent of the General Assembly. The military power of the State shall always be held in subordination to the civil authority and be governed by it. No soldier shall in time of peace be quartered in any house without the consent of the owner nor in time of war but in the manner prescribed by law. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are identical to former Section 26 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section Section 28, 29.

SECTION 21. Martial law.

No person shall in any case be subject to martial law or to any pains or penalties by virtue of that law, except those employed in the armed forces of the United States, and except the militia in actual service, but by the authority of the General Assembly. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are similar to former Section 27 of Article I as it existed prior to the 1971 revision. For similar provisions in Constitution of 1868, see Const 1868, Art I, Section 25.

SECTION 22. Procedure before administrative agencies; judicial review.

No person shall be finally bound by a judicial or quasi-judicial decision of an administrative agency affecting private rights except on due notice and an opportunity to be heard; nor shall he be subject to the same person for both prosecution and adjudication; nor shall he be deprived of liberty or property unless by a mode of procedure prescribed by the General Assembly, and he shall have in all such instances the right to judicial review. (1970 (56) 2684; 1971 (57) 315.)

SECTION 23. Provisions of Constitution mandatory.

The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissive by its own terms. (1970 (56) 2684; 1971 (57) 315.)

Editor's Note

The present provisions of this section are identical to former Section 29 of Article I as it existed prior to the 1971 revision.

SECTION 24. Victims' Bill of Rights.

(A) To preserve and protect victims' rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to:

(1) be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal and juvenile justice process, and informed of the victim's constitutional rights, provided by statute;

(2) be reasonably informed when the accused or convicted person is arrested, released from custody, or has escaped;

(3) be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present;

(4) be reasonably informed of and be allowed to submit either a written or oral statement at all hearings affecting bond or bail;

(5) be heard at any proceeding involving a post-arrest release decision, a plea, or sentencing;

(6) be reasonably protected from the accused or persons acting on his behalf throughout the criminal justice process;

(7) confer with the prosecution, after the crime against the victim has been charged, before the trial or before any disposition and informed of the disposition;

(8) have reasonable access after the conclusion of the criminal investigation to all documents relating to the crime against the victim before trial;

(9) receive prompt and full restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury, including both adult and juvenile offenders;

(10) be informed of any proceeding when any post-conviction action is being considered, and be present at any post-conviction hearing involving a post-conviction release decision;

(11) a reasonable disposition and prompt and final conclusion of the case;

(12) have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and have these rules subject to amendment or repeal by the legislature to ensure protection of these rights.

(B) Nothing in this section creates a civil cause of action on behalf of any person against any public employee, public agency, the State, or any agency responsible for the enforcement of rights and provision of services contained in this section. The rights created in this section may be subject to a writ of mandamus, to be issued by any justice of the Supreme Court or circuit court judge to require compliance by any public employee, public agency, the State, or any agency responsible for the enforcement of the rights and provisions of these services contained in this section, and a wilful failure to comply with a writ of mandamus is punishable as contempt.

(C) For purposes of this section:

(1) A victim's exercise of any right granted by this section is not grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.

(2) "Victim" means a person who suffers direct or threatened physical, psychological, or financial harm as the result of the commission or attempted commission of a crime against him. The term "victim" also includes the person's spouse, parent, child, or lawful representative of a crime victim who is deceased, who is a minor or who is incompetent or who was a homicide victim or who is physically or psychologically incapacitated.

(3) The General Assembly 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.

(4) The enumeration in the Constitution of certain rights for victims shall not be construed to deny or disparage others granted by the General Assembly or retained by victims. (1998 Act No. 259.)

SECTION 25. Hunting and fishing.

The traditions of hunting and fishing are valuable parts of the state's heritage, important for conservation, and a protected means of managing nonthreatened wildlife. The citizens of this State have the right to hunt, fish, and harvest wildlife traditionally pursued, subject to laws and regulations promoting sound wildlife conservation and management as prescribed by the General Assembly. Nothing in this section shall be construed to abrogate any private property rights, existing state laws or regulations, or the state's sovereignty over its natural resources.

HISTORY: 2011 Act No. 20, Section 1, eff May 5, 2011.

Editor's Note

2011 Act No. 20, Section 1, provides in part:

"SECTION 1. The amendment to Article I of the Constitution of South Carolina, 1895, prepared under the terms of Joint Resolution 3483 of 2009, having been submitted to the qualified electors at the General Election of 2010 as prescribed in Section 1, Article XVI of the Constitution of South Carolina, 1895, and a

favorable vote having been received on the amendment, is ratified and declared to be a part of the constitution so that Article I is amended by adding Section 25:”.