

## 29.7 Defendant's Right to Testify or Not to Testify

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A criminal defendant has the right to testify in his or her own defense. Although not recognized at common law or specifically enumerated in the U.S. Constitution, this right is now accepted to be an inherent part of the Due Process Clause of the Fourteenth Amendment and the Compulsory Process Clause of the Sixth Amendment to the U.S. Constitution. *See Rock v. Arkansas*, 483 U.S. 44 (1987); *State v. Colson*, 186 N.C. App. 281 (2007). Article I, section 23 of the N.C. Constitution also guarantees a criminal defendant the right to testify. *See State v. Murray*, 154 N.C. App. 631 (2002); *see also* G.S. 8-54 (providing that a criminal defendant is “at his own request, but not otherwise, a competent witness”).

Likewise, a criminal defendant has a right to refuse to testify under the Fifth Amendment to the U.S. Constitution, as incorporated by the Fourteenth Amendment, and also under article I, section 23 of the N.C. Constitution. *Griffin v. California*, 380 U.S. 609 (1965); *State v. Mitchell*, 353 N.C. 309 (2001). G.S. 8-54 grants the defendant the right to testify, but the language of the statute makes it clear that nothing in it renders a criminal defendant “compellable to give evidence against himself.”

For a more detailed discussion on the defendant's right to testify and right to refuse to testify, see *supra* § 21.3, Right to Testify.