



Overview: Marsy's Law for All

Equal Rights for Crime Victims

State constitutions and the U.S. Constitution enumerate rights for individuals accused of a crime, and individuals convicted of a crime. Crime victims, on the other hand, have no enumerated rights in 18 states' constitutions, nor the U.S. Constitution. Marsy's Law for All seeks to amend state constitutions that don't offer protections, and eventually the U.S. Constitution, to give victims of crime equal rights that are already afforded to the accused and convicted.

We can all agree that no rapist should have more rights than the victim. No murderer should be afforded more rights than the victim's family. Marsy's Law would ensure that victims have the same "co-equal" rights as the accused and convicted - nothing more, nothing less.

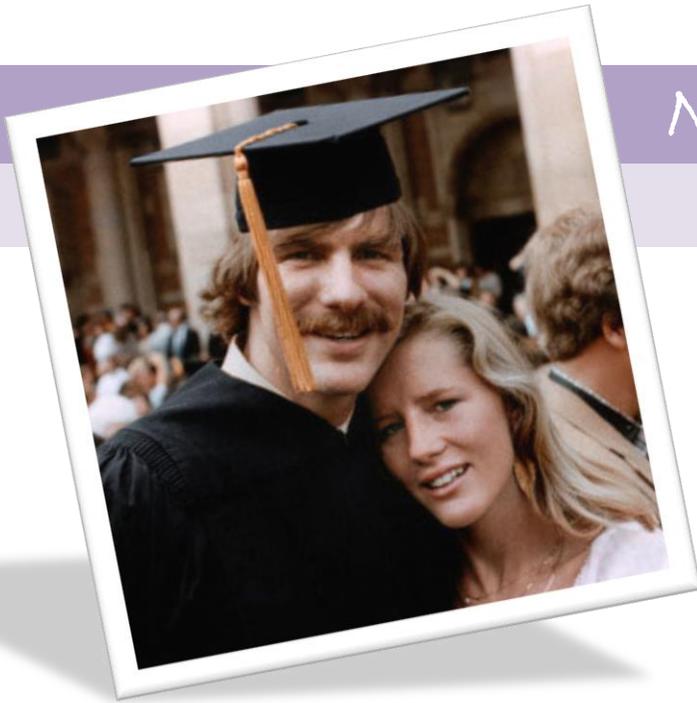
Marsy's Law is not a partisan issue. Giving crime victims co-equal rights is a rare political issue that Republicans and Democrats are unified in supporting. Marsy's Law has already been passed and has already become law in California. In November 2014, voters in Illinois passed Marsy's Law by an overwhelming 78%, one of the largest constitutional votes in Illinois history.

Marsy's Law is named after Marsalee "Marsy" Nicholas. Marsy was stalked and killed by her ex-boyfriend in 1983. Only a week after she was murdered, her mother and brother, Henry T. Nicholas, walked into a grocery store after visiting Marsy's grave where they were confronted by the accused murderer. The family had no idea he had been released on bail. He remained free on bail until his conviction.

Dr. Henry Nicholas has made it his mission in life to give victims and their families across the country constitutional protections and equal rights.

A constitutional amendment for victims' rights would guarantee equal rights to crime victims:

- Victims and their families would receive information about their rights and the services available to them.
- They would have the right to receive notification of proceedings and major developments in the criminal case.
- They would have the right to receive timely notifications changes to the offender's custodial status.
- Victims and their families would have the right to be present at court proceedings and provide input to the prosecutor before a plea agreement is finalized.
- They would have the right to be heard at plea or sentencing proceedings or any process that may result in the offender's release.
- Finally, they would have the right to restitution.



Marsy's Story...

Justice with Compassion

Marsy's Law for All is dedicated to the cause of ensuring that crime victims' rights are codified in law throughout the United States. When it passed in November 2008, Proposition 9, The Victims' Bill of Rights Act of 2008: Marsy's Law, became the strongest and most comprehensive Constitutional victims' rights law in the U.S. and put California at the forefront of the national victims' rights movement.

Dr. Henry T. Nicholas, the co-founder of Broadcom Corp., was the key backer and proponent of Marsy's Law. Dr. Nicholas is now lending his support to an effort to amend victims' rights into the U.S. Constitution.

"This is a national movement already," said Dr. Nicholas. "There are hundreds of marches across the country for National Crime Victim's Week every year. We need to harness that energy to ensure victims' rights for every American." Marsy's Law was opposed by every major newspaper in California state and yet the people of California passed the measure with 54% of the vote. The message was quite clear – Californians want violent crime victims and their families to have guaranteed rights.

Marsy's Law was named after Dr. Nicholas' sister, Marsalee (Marsy) Nicholas, a beautiful, vibrant University of California Santa Barbara student, who was stalked and killed by her ex-boyfriend in 1983. Only a week after Marsy was murdered, Dr. Nicholas' and Marsy's mother, Mrs. Marcella Leach, walked into a grocery store after visiting her daughter's grave and was confronted by the accused murderer. She had no idea that he had been released on bail.

Mrs. Leach's story is typical of the pain and suffering the family members of murder victims have endured. She was not informed because the courts and law enforcement, though well meaning, had no obligation to keep her informed. While criminals have more than 20 individuals rights spelled out in the U.S. Constitution, the surviving family members of murder victims have none.

But the passage of Marsy's Law changed all that in California. Now every District Attorney in California is undergoing training in Marsy's Law, and how to ensure victims are informed of their Marsy Rights. Now, victims of violent crime in California must by law be treated with respect and dignity by the criminal justice system. Courts must consider the safety of victims and families when setting bail and release conditions. And family members have legal standing in bail hearings, pleas, sentencing and parole hearings.

"If any good can come of something this horrible -- the loss of my sister and the losses of other families of crime victims – it is that these violent acts served as a catalyst for change," Dr. Nicholas said. "Marsy's Law will provide for a more compassionate justice system for crime victims in California and make that a constitutional guarantee. Now the momentum can be put behind a U.S. Constitutional Amendment so that the rights of all crime victims, anywhere in America, can be protected."

MARSY'S LAW: A MODEL CONSTITUTIONAL AMENDMENT TO AFFORD VICTIMS MEANINGFUL RIGHTS

- A.** To preserve and protect the right of crime victims to justice, to ensure crime victims a meaningful role throughout criminal and juvenile justice systems, and to ensure that crime victims' rights and interests are respected and protected by law in a manner no less vigorous than the protections afforded to criminal defendants and juvenile delinquents, every victim shall be entitled to the following rights, beginning at the time of their victimization:
- 1.** The right to due process and to be treated with fairness and respect for the victim's dignity.
 - 2.** The right to be free from intimidation, harassment and abuse.
 - 3.** The right to be reasonably protected from the accused and any person acting on behalf of the accused.
 - 4.** The right to have the safety and welfare of the victim and the victim's family considered when setting bail or making release decisions.
 - 5.** The right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family, or which could disclose confidential or privileged information of the victim.
 - 6.** The right to privacy, which includes the right to refuse an interview, deposition or other discovery request and to set reasonable conditions on the conduct of any such interaction to which the victim consents.
 - 7.** The right to reasonable, accurate and timely notice of, and to be present at, all proceedings involving the criminal conduct, plea, sentencing, adjudication, any release or escape of the defendant or delinquent, and any proceeding during which a right of the victim is implicated.
 - 8.** The right to be heard in any proceeding involving release, plea, sentencing, adjudication, or parole, and any proceeding during which a right of the victim is implicated.
 - 9.** The right to confer with the prosecuting attorney.
 - 10.** The right to provide information regarding the impact of the offender's conduct on the victim and the victim's family to the individual responsible for conducting any pre-sentence investigation or compiling any pre-sentence investigation report, and to have any such information considered in any sentencing recommendations submitted to the court.
 - 11.** The right to receive a copy of any pre-sentence report, and any other report or record relevant to the exercise of a victim's right, except for those portions made confidential by law.
 - 12.** The right to the prompt return of the victim's property when no longer needed as evidence in the case.

- 13.** The right to full and timely restitution in every case and from each convicted offender for all losses suffered by the victim as a result of the criminal conduct. All monies and property collected from any person who has been ordered to make restitution shall be first applied to the restitution owed to the victim before paying any amounts owed to the government.
 - 14.** The right to proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related post-judgment proceedings.
 - 15.** The right to be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape by offender from custody.
 - 16.** The right to be informed of all post-conviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender. The parole authority shall extend the right to be heard to any person harmed by the offender.
 - 17.** The right to be informed of clemency and expungement procedures, to provide information to the Governor, the court, any clemency board and other authority in these procedures, and to have that information considered before a clemency or expungement decision is made; and to be notified of such decision in advance of any release of the offender.
 - 18.** The right to be informed of these rights, and to be informed that victims can seek the advice of an attorney with respect to their rights. This information shall be made available to the general public and provided to all crime victims in what is referred to as a Marsy's Card.
- B.** The victim, the retained attorney of the victim, a lawful representative of the victim, or the prosecuting attorney upon request of the victim may assert and seek enforcement of the rights enumerated in this section and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding disposition of a victim's right shall be clearly stated on the record.
- C.** The granting of these rights to victims shall not be construed to deny or disparage other rights possessed by victims. All provisions of this section apply throughout criminal and juvenile justice processes are self-enabling and require no further action by the Legislature.
- D.** As used in this section, a "victim" is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. The term "victim" also includes any spouse, parent, grandparent, child, sibling, grandchild, or guardian, and any person with a relationship to the victim that is substantially similar to a listed relationship, and includes a lawful representative of a victim who is deceased, incompetent, a minor, or physically or mentally incapacitated. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor or incapacitated victim. The term "crime" and "criminal" include delinquent acts and conduct.
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Marsy's Law: *Myth Vs. Fact*

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he equal rights for crime victims enumerated in Marsy's Law are common sense. All crime victims should be afforded these rights as a matter of course, but, in the current statutory system, they are not. That is why Marsy's Law seeks constitutional amendments.

Marsy's Law will ensure that prosecutors and the courts treat crime victims with the respect that they deserve. Those with concerns about Marsy's Law appear to be confused about the law and how it would be applied. The following clarifies the primary areas of confusion:

A Voice Not a Veto

Myth: Forcing prosecutors to get input from the victim will allow the victim to interfere with the prosecutor's case.

Fact: Marsy's Law gives the victim a voice, not a veto. The prosecutor's role in a criminal case is unchanged by Marsy's Law.

Number of Victims Filings

Myth: There will be a flood of filings to enforce rights.

Fact: More than 30 other states have victim rights constitutional amendments and none have reported a significant number of filings. Courts and prosecutors respect the importance of constitutional rights. As long as courts and prosecutors respect victims' rights there will not be a flood of filings. This is why having constitutional victims' rights is vital.

Role of Victim in Criminal Case

Myth: Marsy's Law will make the victim a party to the criminal case.

Fact: The victim's role in the criminal case will not change. The victim is not a party to the criminal case. The prosecutor remains in control over the case and makes all the decisions in the prosecution of the crime. Marsy's Law recognizes that the victim is the individual most affected by the crime and interested in the outcome of the prosecution.

Constitutional Victims' Rights Are Essential

Myth: States provides victims with a statutory crime victim bill of rights and that should be enough.

Fact: Statutory rights are insufficient and illusory because they are not enforced. Victims deserve to have constitutional protections, just as those who are accused and convicted.

Victims' Constitutional Rights Can Co-Exist With Defendants' Constitutional Rights

Myth: Victim's rights will trump defendant's rights.

Fact: Victims' rights will not trump defendants' rights. Victims' constitutional rights create balance with defendant's constitutional rights. The United States government is founded on a system of checks and balances. The courts have the ability to balance rights if a conflict arises between a victim's right and a defendant's right.

Impact on the Criminal Courts

Myth: Forcing prosecutors to speak to the victims before finalizing a plea deal, giving victims' notice of court hearings and providing victims with the right to provide input at hearings will cause long costly delays in the prosecution.

Fact: More than 30 states have constitutional victims' rights and their criminal courts have not been derailed. Speaking to a victim before finalizing a deal or a bail hearing is just common sense. The victim may have information that may change the court's decision. Court hearings are normally scheduled days, weeks and months in advance. This is sufficient time to contact victims.

Impact on the Correctional System

Myth: Constitutional victims' rights will lead to overcrowding in prisons.

Fact: The parole board should have all pertinent information when deciding if an inmate should be paroled, and this includes information from the victim. Requiring victims to be informed of parole hearings and allowing them to be present will not create overcrowding. Victims should have a right to know if their perpetrator will be released (possible safety concerns) and have an opportunity to explain to the parole board why an inmate should or should not be released.

Cost of Having Constitutional Rights for Victims

Myth: Allowing the victim to have rights will be costly.

Fact: Cost should not prevent us from doing what is right. The prosecutors' offices already have Victim Witness Counselors who provide victims with notice and information. There will be administrative costs (court time, etc.) if a victim is forced to seek enforcement of his or her rights. The way to eliminate this cost is to ensure that the victims' rights are not violated. Having the means to correct an oversight is worth a few minutes of a court's time.

MARSY'S CARD AND RESOURCES

The California Constitution, Article 1, Section 28(b), confers certain rights to victims of crime. Those rights include:

1. **Fairness and Respect** – To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.
2. **Protection from the Defendant** – To be reasonable protected from the defendant and persons acting on behalf of the defendant.
3. **Victim Safety Considerations in Setting Bail and Release Conditions** – To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.
4. **The Prevention of the Disclosure of Confidential Information** – To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.
5. **Refusal to be Interviewed by the Defense** – To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.
6. **Conference with the Prosecution and Notice of Pretrial Disposition** – To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.
7. **Notice of the presence at Public Proceedings** – To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.
8. **Appearance at Court Proceedings and Expression of Views** – To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.
9. **Speedy Trial and Prompt Conclusion of the Case** – To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.
10. **Provision of Information to the Probation Department** – To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.
11. **Receipt of Pre-Sentence Report** – To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.
12. **Information About Conviction, Sentence, Incarceration, Release, and Escape** – To be informed, upon request, of the conviction, sentence, place and time of the defendant, and the release of or the escape by the defendant from custody.
13. **Restitution**
 - A. It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.
 - B. Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss.
 - C. All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.
14. **The Prompt Return of Property** – To the prompt return of property when no longer needed as evidence.
15. **Notice of Parole Procedures and Release on Parole** – To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.
16. **Safety of Victim and Public are Factors in Parole Release** – To have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment release decision is made.
17. **Information About These 16 Rights** – To be informed of the rights enumerated in paragraphs (1) through (16).

The Attorney General does not endorse, have any responsibility for, or exercise control over these organizations' and agencies' views, services, and information.

- [Victim Compensation Program](#)
Help for victims of: Assault, Drunk Driving, Sexual Assault, Child Abuse, Homicide, Stalking, Domestic Violence, Robbery, and Human Trafficking. Victim Compensation can help pay for: mental health counseling, funeral costs, loss of income, crime scene cleanup, relocation, medical and dental bills. For more information contact your local Victim Witness or Victim Compensation and Government Claims Board: 1-80-777-9229 | www.vcgcb.ca.gov/victims
- [CA Dept. of Corrections and Rehabilitation, Office of Victim & Survivor Rights & Services](#)
Provides information on offender release, restitution, parole conditions and parole hearings when the offender is incarcerated in prison. 1-877-256-6877 | www.cdcr.ca.gov/victim_services
- [McGeorge School of Law](#)
Victims of Crime Resource Center – Provides resources for victims by their geographic area along with information on restitution, civil suits, domestic violence, elder abuse, child abuse, abuse against the disabled, victims' rights and compensation. 1-800-Victims | www.1800victims.org
- [National Domestic Violence Hotline](#)
24-hour hotline for domestic violence resources.
1-800-799-SAFE | TTY: 1-800-787-3224 | www.ndvh.org
- [Adult Protective Services County Contact Information \(Elder Abuse\)](#)
Website lists 24-hour hotline numbers for each county in California.
www.cdss.ca.gov/agedblinddisabled/PG2300.htm
- [National Child Abuse Hotline](#)
Treatment and prevention of child abuse.
1-800-4-A-CHILD | www.childhelp.org/pages/hotline-services
- [Rape, Abuse & Incest National Network Hotline](#)
Provides free, confidential services to victims of sexual assault.
1-800-656-HOPE | www.rainn.org
- [National Human Trafficking Resource Center Hotline](#)
24-hour hotline for reporting tips, contacting local anti-trafficking services and requesting information.
1-800-373-7888 | www.traffickingresourcecenter.org
- [The California Relay Service:](#)
For speech impaired, deaf or hard-of-hearing callers: Dial 711. TTY/HCO/VCO to Voice for English: 1-800-735-2929 and for Spanish: 1800-855-3000. Voice to TTY/VCO/HCO for English: 1-800-735-2929 and for Spanish; 1-800-855-3000. From or to Speech to Speech – English and Spanish: 1-800-854-7784.

A 'victim' is defined under the California Constitution as "a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term 'victim' also includes the person's spouse, parents, children, siblings, or guardian, and includes a lawful representative of a crime victim who is deceased, a minor, or physically or psychologically incapacitated. The term 'victim' does not include a person in custody for an offense, the accused, or a person whom the court finds would not act in the best interests of a minor victim." (Cal. Const., art. I, §28 (e).) A victim, the retained attorney of a victim, a lawful representative of the victim, or the prosecuting attorney upon request of the victim, may enforce the above rights in any trial or appellate court with jurisdiction over the case as a matter of right. The court shall act promptly on such a request. (Cal. Const., art. I, §28 (c) (1).)

