



## Marsy's Law

### A Model Constitutional Amendment To Afford Victims Equal 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.