



## **Marsy's Law for WI – Facts on the Fight for Equal Rights for Crime Victims**

**Marsy's Law for Wisconsin** is a grassroots movement working with a broad coalition of Wisconsinites seeking to secure equal rights for victims of crime. Our coalition includes victims, victim advocates, law enforcement, state legislators, legal experts, and community members across Wisconsin, and we've partnered with Attorney General Brad Schimel and his Office of Crime Victim Services, as well as victims' rights groups like Wisconsin Coalition Against Sexual Assault. Here are some **Myths** and **Facts** about our proposal:

**Myth:** This proposal will burden our criminal justice system.

**Fact:** Our justice system will not be burdened by Marsy's Law for Wisconsin, because many of these rights are already the law in Wisconsin in some form. In other words, we've had the infrastructure and dedicated resources to enforce these laws for years. The difference is that under our legislation, victims will be able to invoke the state of Wisconsin's Constitution to secure all of their rights as they navigate the difficult legal process, rather than see the rights of the accused automatically trump their own rights.

**Myth:** This is not necessary.

**Fact:** Many of the critics saying Marsy's Law for Wisconsin is not necessary are also saying the provisions will have drastic consequences – they can't have it both ways. Marsy's Law is rooted in the need to ensure that victims have Constitutional rights so that they are not second-class citizens in the courtroom. The bill will strengthen and expand the existing Constitutional Amendment as well as elevate important statutory right to the Constitution. Its adoption will have a lasting impact on victims in the Badger State for generations to come.

**Myth:** This proposal will infringe upon the rights of the accused.

**Fact:** Marsy's Law for Wisconsin seeks to provide victims with rights that are equal to those of the accused – nothing more, nothing less. Our bipartisan legislation will not infringe upon the rights of the accused, it will simply give victims equal legal footing as a judge is evaluating a victim's rights against those of the defendant. In fact, our legislation states that it is "not intended to and may not be interpreted to supersede a defendant's federal constitutional rights..."

**Myth:** The right to refuse an interview or deposition will infringe on the defendants' rights.

**Fact:** This right already exists in Wisconsin law, and Marsy's Law for Wisconsin simply puts victims on more equal footing with their attackers by making it a constitutional right in the state of Wisconsin. Criminals can opt at any time to not talk to the authorities as part of their Fifth Amendment rights under the U.S. Constitution, and Marsy's Law for Wisconsin would afford victims similar rights when dealing with the defense in a pre-trial setting.

**Myth:** The right to refuse other discovery requests will infringe on the defendants' rights or ability to have a fair trial.

**Fact:** All evidence that is part of the criminal investigation would still be available to the defense, and this right simply allows a victim to deny requests for personal records or information that was not part of the criminal investigation. The right to refuse discovery requests allows, for example, a domestic abuse survivor to be free of harassment by her abuser seeking personal information not material to the case, like a diary or phone records revealing places the victim has called to seek safety. If the defense believes information is material to the case, the attorneys can ask a judge to compel the victim to provide the information – just like in Arizona, Oregon, and California, where similar provisions have been in place for many years.

**Myth:** This proposal would interfere with civil proceedings or the ability of a defendant to sue a wrongful accuser.

**Fact:** Marsy's Law for Wisconsin only applies to criminal proceedings. In a civil suit, laws related to civil proceedings would still apply.

**Myth:** Improving victims' rights will lead to unnecessary delays in the court system.

**Fact:** As long as victims rights are taken into account, there should be no delays at all. In fact, one of the rights is to be free from "unreasonable delay" because one of the tactics of the defense can be to delay court proceedings – a practice that is painful and terrifying for a victim coming to testify or observe a proceeding in the same room as his or her attacker. The accused have the right to a speedy trial, and victims should have rights that are equal in that regard.

**Myth:** This will prevent the public from having information it deserves to know.

**Fact:** Protecting victim privacy is already in Wisconsin's Constitution, and this would continue that important right. Marsy's Law for Wisconsin would enable victims to maintain their privacy and personal safety, but with proper review, law enforcement can protect victims' rights while providing public information. Not only is this already recognized in Wisconsin law, but many news outlets acknowledge the importance of this balance in their own decision-making – the Associated Press, for example, does not publish the name of sexual assault victims.

**Myth:** This proposal is national legislation that isn't right for Wisconsin.

**Fact:** Our proposal is unique to Wisconsin. Unlike other states that have passed different versions Marsy's Law, Wisconsin is already a leader on victims' rights after becoming the first state to adopt a Crime Victims' Bill of Rights, and after passing a state constitutional amendment in 1993. Marsy's Law for Wisconsin worked with Wisconsinites – victims, victim

advocates, the Attorney General and his Office of Crime Victim Services, legislators, law enforcement, legal experts and others – to draft a unique Wisconsin solution based on how we can update our Constitution and improve our already strong victims' rights laws. The rights Marsy's Law for Wisconsin is fighting for are either currently in state statute and need to be elevated to our Constitution, or are in the Constitution and need to be clarified.