

# MARSY'S LAW

**Marsy's Law is bad for victims and wrong for Kentucky. This legislation is well-intentioned, but fails to provide any real support to victims of criminal acts and turns due process on its head.**

## THE PROBLEM

**Senate Bill 15 uses inconsistent and confusing language that would be at odds with Kentuckians' constitutional rights and create significant unintended consequences. Marsy's Law is:**

### INCONSISTENT AND CONTRADICTORY

SB15 uses contradictory language that some of the state's top legal minds cannot even untangle. Once when analyzing the legislation, one KY Supreme Court Justice simply remarked: "I don't know what this means."

### AN EMPTY PROMISE OPPOSED BY PROSECUTORS AND VICTIMS'

SB15 explicitly denies victims a path to seek legal remedies for violations of their rights. Victims of criminal acts need resources and support, not an empty promise like SB15.

#### AT ODDS WITH THE U.S. CONSTITUTION:

##### **Sixth Amendment:**

SB15 conflicts with a defendant's right to counsel and right to challenge the evidence against them guaranteed by the 6<sup>th</sup> Amendment of the U.S. Constitution.

##### **Eighth Amendment:**

SB15 conflicts with protections from excessive bail guaranteed by the 8<sup>th</sup> Amendment of the U.S. Constitution.

##### **Lack of Guidance:**

SB15 provides no guidance to lawmakers or judges on how to prevent violations of the rights guaranteed to all people by the U.S. Constitution.

#### DOES NOT SUPPORT VICTIMS OF CRIMINAL ACTS:

Kentucky law already grants victims many of the rights outlined in SB15, including the rights to:

- timely notice of all court proceedings
- be heard in release, plea, or sentencing proceedings
- be present at trial and all other proceedings
- consult with Commonwealth or County Attorneys.

Prosecutors' offices have victims' advocates. If victims feel uninformed or unsupported by these advocates, the advocates should be provided with additional resources. This amendment does not provide any resources to help victims.

#### AN UNFUNDED MANDATE:

SB15 creates a need for substantial additional resources, but does not allocate any. For example, the legislation gives victims of criminal acts the right to counsel, but provides no mechanism for the state to provide attorneys to victims without the resources to hire an attorney.

Similar legislation in North Dakota, a state with less than a quarter the population of Kentucky, was estimated to cost \$2 million per year. In North Carolina, Marsy's Law was estimated to cost \$16.4 million to implement and \$30.5 million annually in subsequent years.

*Updated February 7, 2020  
View sources and more at [ACLU-KY.org/MarsysLaw](https://www.aclu-kentucky.org/marsyslaw)*

**WORKS CITED:**

1. Wolfson, Andrew. "Marsy's Law Could Have Unintended Consequences for Crime Victims." Journal, Louisville Courier Journal, 7 Nov. 2018, [www.courier-journal.com/story/news/2018/10/31/kentucky-elections-2018-marsys-law-may-have-consequences/1818686002/](http://www.courier-journal.com/story/news/2018/10/31/kentucky-elections-2018-marsys-law-may-have-consequences/1818686002/).