



**Letter of Opposition from the
American Civil Liberties Union of Kentucky**

To Members of the House of Representatives

Regarding Senate Bill 15

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Members of the Kentucky House of Representatives:

The ACLU of Kentucky opposes Senate Bill 15, also known as “Marsy’s Law”. We have particular concern with the passage of a wide-sweeping and controversial¹ bill, which would fundamentally change our constitution at a time when we are facing one of the greatest public health and economic crises in generations — especially when opponents to this bill, like my organization, are unable to fully participate in the legislative process. With that in mind, we urge you to vote no on SB15. Please consider holding this bill until we can return to business as usual, and you can hear from a range of voices in live testimony.

For several years now, this legislative body has heard our concerns about the lack of clarity in SB15, and the lack of resources to support victims in need. First, SB15 places different rights at odds with each other and offers no guidance to judges on how to navigate these conflicts. This will lead to widespread confusion in the courts. When the KY Supreme Court considered the legal challenge to Marsy’s Law last year, the justices stated that they did not understand certain provisions of the bill, and did not know how to interpret it. These are, of course, the same justices that would hear future legal challenges if SB15 becomes law.

Second, the lack of resources or support to ensure the rights outlined in SB15 means nothing will actually change to help victims. There is no additional guidance for advocates, judges, or court officers. Additionally, there is no cause of action for victims who feel their rights have been violated, as explicitly stated in the bill. Last, there are no additional resources allocated for victims’ rights advocates. Nothing will change for victims if Marsy’s Law is passed. SB15 is an empty promise to victims across Kentucky.

In addition to Marsy’s Law being an empty promise, we have also spoken at length about the unintended consequences that Marsy’s Law will have. Since the last time Kentucky’s



legislature considered Marsy's Law, a number of other states have passed a version of this constitutional amendment. We must use this unique position to learn from those states and avoid the same mistakes.

In all, ten states have passed a version of this constitutional amendment. In the years since they passed their versions of Marsy's Law, states including North Dakota, South Dakota, Nevada, and Florida have seen unexpected and bizarre consequences. For instance, law enforcement officers have interpreted the victims' constitutional right to privacy as a requirement that police withhold certain information from the public: the sketch of an assault suspect and name of the community in which the assault took place; the name of a daycare facility where a worker was charged with child abuse; and motor vehicle accident reports, just to name a few. Some states' versions of Marsy's Law contain a specific provision regarding the withholding of certain records, but SB15 does not.

SB15 actually goes even further, including a vague and undefined "privacy" right into the Constitution that could be interpreted in countless different ways.

Other states have also reported predictable delays and snags within the justice system. For instance, advocates in several of these states report that bond or bail hearings are often delayed pending victim notification, sometimes for weeks or even months. At a time when legislators and advocates across political ideologies are working together to reduce our jail and prison populations, this bill has the very real potential to keep people locked up much longer than they should be.

Most importantly, the General Assembly is well-positioned to review the current statutory Victims' Bill of Rights, review which provisions are working, which are not, and make changes to ensure victims are supported and heard as cases move through the legal system. You even have a bill pending in your chamber that is primed to do this—House Bill 617. We strongly members of the House of Representatives, to take that positive step. Rather than permanently change the Constitution in a way that will let victims down and cause widespread problems in our justice system. Thank you for your time and consideration. I hope you and your staff are safe and healthy.

Kate Miller
Advocacy Director