



NCCADV

North Carolina Coalition
Against Domestic Violence

QUICK GUIDE TO MARSY'S LAW (NEW NC CRIME VICTIMS' RIGHTS LAW)

WHAT IS MARSY'S LAW?

In November of 2018, North Carolina voters approved a new, stronger set of crime victims' rights to replace the previously enacted crime victims' bill. The new constitutional amendment expanded the definition of "victim" to include many new categories of crime, including victims of felony property crime. The amendment also listed 9 new categories of rights along with a general requirement that crime victims be treated with dignity and respect throughout their court proceedings. Finally, the bill expanded the Victims' Rights to include victims of crimes committed by a juvenile.

WHAT RIGHTS DO VICTIMS HAVE UNDER THE EXPANDED VICTIMS' RIGHTS BILL IN NC?

- The right upon request to reasonable, accurate and timely notice of court proceedings;
- The right upon request to be present at court proceedings;
- The right to be reasonably heard in court about a plea deal, sentencing, or release of the defendant;
- The right to receive restitution in a reasonably timely manner when ordered by the court;
- The right to receive information about the crime, about how the criminal justice system works, about crime victims' rights, and the availability of services for victims;
- The right upon request to be given information about the conviction or disposition and sentence of the defendant;
- The right upon request to receive information about the escape, release, proposed parole or pardon of the defendant, or notice of a reprieve or commutation of a sentence;
- The right to present views and concerns to the Governor in writing concerning an action that could result in the release of the defendant, prior to that action taking place;
- The right to reasonably confer with the District Attorney's office.

ARE THERE SPECIAL PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE IN MARSY'S LAW?

- In most cases there is no requirement that a District Attorney or Law Enforcement contact a victim prior to a defendant's **pretrial release on bond or with bail**, but Marsy's Law includes a requirement that if there is a personal relationship between the parties, they must attempt to contact that victim prior to release.
- The District Attorney must make every effort to ensure that a victim's telephone number, address, financial information and other personal information are not disclosed at any point during the proceedings.
- Although this right is not found in the Victims' Rights bill, at the same time the Victims' Rights Bill was passed another new law also passed which says that if a judge is considering ordering the release of a victim's privileged file from a domestic violence or sexual assault agency, the judge must inquire if that victim is present and wants to be heard. **(continued on back).**

WHAT ELSE DO DOMESTIC VIOLENCE VICTIMS NEED TO KNOW ABOUT MARSY'S LAW?

- You do not have to participate in the rights given to victims under Marsy's Law. Other than being given information about your rights by law enforcement, these rights are given to you "upon request."
 - If you do want to participate, there is a form that law enforcement will give to you will fill out with your contact information. This form will go into law enforcement's file and the District Attorney's office.
 - The fact that you can "reasonably" confer with the District Attorney's office doesn't automatically mean that you can talk to the District Attorney themselves. You may be speaking to an assistant up until the court date.
- If you are a victim of domestic violence who has been charged and is a defendant in a court case where your abuser is the alleged "victim" of the crime, you can ask your defense attorney to argue that it is not "reasonable" for the "victim" abuser to get all of the rights.
 - If you feel you have not gotten the rights you are entitled to under Marsy's Law, you can file a Motion with the court to have a chance to tell the judge about it and ask the judge to enforce your rights. However, if the complaint is against the District Attorney or Law Enforcement, you must first file a written complaint with that agency first and give them a chance to fix the problem.
 - If they don't fix the problem, or if your complaint is about something besides the DA or Law Enforcement, you can find that form to file your Motion here: <https://www.nccourts.gov/documents/forms/motion-and-order-to-enforce-rights-of-crime-victim>.
 - Fill out the form and take it to the Criminal Clerk of Superior Court in the county where the case is pending.