

With November 6, 2018 quickly approaching, I thought it prudent to explain to our membership and the public-at-large why NCVAN chooses to support Marsy's Law.

Marsy's Law is one of the six new constitutional amendments on which North Carolinians will be asked to vote. It is unfortunate that there is an effort to bundle six amendments together to confuse voters when Marsy's Law, an amendment to strengthen victims' rights, has no relationship whatsoever to the other five amendments.

For over two years now, NCVAN has actively engaged in the process by having constant discussion with the Marsy's Law team and sister victim service organizations. These discussions have revolved around our experiences in serving victims, especially under-served surviving loved ones of homicide victims, what we see as the weakest link in our current amendment, and what we hear most often from the victims we serve. Historically it has been our position, and it is currently our position, that we advocate for violent crime victims and any position we take around policy and criminal justice practices will consider – first and foremost – victims of violent crime. Our workload, and the workload of other victim service providers and allied professionals must be secondary. NCVAN is convinced that we can mitigate any potential negative effects of workload through a commitment to process improvement and working together for the common good of victims and those who serve them.

The current victims' rights amendment was an important step forward in 1996. It was the first time in North Carolina history that victims were afforded rights while they moved through the criminal justice process. Currently, District Attorney's in North Carolina are required to send a letter to victims within 21 days of the arrest of their perpetrator(s). This letter informs victims that they have the right to be notified of hearings pertaining to their perpetrator(s) (or not) and be present if they so choose. In short, victims must "opt-in" to receive these rights. It became clear over time however that many victims remained unaware of their rights for various reasons and consequently knew little about how the case against their perpetrator was moving forward. The calls we receive at NCVAN from victims support this belief.

Firstly, just as our current victims' rights amendment is "opt-in", Marsy's Law will also be "opt-in". However, current practices will have to be revisited should Marsy's Law pass, and NCVAN will work to better ensure victims are aware they have rights. Secondly, the current amendment has no enforcement component that gives victims an opportunity for "remedy". Simply put if, during the prosecution of the perpetrator(s), an uninformed victim suddenly becomes aware he/she has rights, the opportunity to exercise those rights may be significantly lessened with no guaranteed recourse. This is perhaps the biggest difference between the current amendment and Marsy's Law. Marsy's Law will provide the opportunity for victims to file a motion and ask for their rights to be acknowledged and provided (*Section 1, 1b of the bill*). This is a huge step forward for victims and NCVAN considers this a milestone in our fight for victims' voices to be heard.

Opponents will argue that:

- Marsy's Law has expanded the definition of victim to include felony property crimes thereby increasing the number of victims requiring support and simultaneously decreasing the time available to support victims of violent crime.

***It is true that the definition of victim has been expanded under Marsy's Law. However, NCVAN supports the rights of all victims harmed by crime and we do not want to serve a select group of victims at the exclusion of another. While we understand that resources may be strained, we also do not want to create a problem before there is one or fear moving forward because there may be challenges ahead. Often, improving upon processes and practices can effectively mitigate workload.***

**NCVAN believes in our commitment to put victims first – we cannot and should not lessen our commitment because the path ahead may be difficult. Solutions are already being discussed to include improving upon an existing automated notification system. Automation would significantly decrease the investment of staff time to notify victims of hearings and court dates. Notification is the primary “service” to victims provided by DA’s offices across the state.**

- DA’s offices are stretched thin for resources and Marsy’s Law does not include money to pay for victim services implementation.  
***It is important to note that amendments NEVER include money. Money should be addressed once the amendment is passed and the legislature decides what services should be provided and who should provide them.***
- Enabling legislation has not been written.  
***It is important to note that enabling legislation should not be written before the amendment is passed. That would be backwards. Previously the Victims’ Rights Act was passed by voters in November 1996 and the enabling legislation was passed in 1998.***
- In Section 1a(b) “reasonably heard” allows wide discretion from judge-to-judge.  
***It is NCVAN’s position that flexibility and discretion, to some extent, is unavoidable and that lack of flexibility and discretion can also be harmful to victims. Victims have never had the right to speak at any time during the court proceedings other than at sentencing (per our current victims’ rights amendment). Marsy’s Law will provide multiple opportunities for victims to be heard! Marsy’s Law provides that victims have a right to be heard at hearings in addition to being heard at sentencing and it allows the victim to ask the judge to enforce their rights if those rights are not being provided. Marsy’s Law is a step forward and will create a stronger foundation on which we can build.***

NCVAN has expressed our willingness to work with allied professionals and state stakeholders and will remain committed to a collaborative approach to inform legislation, practices, processes and procedures that will consider efficiency and effectiveness in day-to-day operations. We believe that with the commitment of victim service professionals and the support of North Carolina citizens, we can expand and strengthen victims’ rights in a way that will not be cumbersome but will create an environment where victims have greater standing to mitigate the harm done to them.

Please Vote Yes to Marsy’s Law on November 6, 2018!



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