

2019-2020 Legislative Session



To: Senate Committee on Judiciary and Public Safety
and Assembly Committee on Criminal Justice and Public Safety
From: Chase Tarrier, Public Policy Coordinator, End Domestic Abuse WI
Re: Senate Joint Resolution 53 - Marsy's Law
Date: January 9, 2019

Dear Chairman Wanggaard, Chairman Spiros, and the members of the Senate Committee on Judiciary and Public Safety and Assembly Committee on Criminal Justice and Public Safety,

Thank you for the opportunity to provide testimony today regarding Senate Joint Resolution 53/Assembly Joint Resolution 47 relating to the constitutional rights of victims of crime. End Domestic Abuse WI (End Abuse) is the statewide voice for survivors of domestic violence and the membership organization representing local domestic violence victim service providers throughout the state.

While the intent of the legislation before you today is laudable, and in many ways aligns with our coalition's goal to protect and empower victims, End Abuse remains neutral on the resolutions and this testimony is intended for informational purposes only. Before proceeding, I would like to thank the Marsy's Law organization and its representatives with whom the End Abuse Policy Team had many conversations during the previous session in which the concerns below were relayed.

The apparent contradiction between the stated goals of Marsy's Law and End Abuse's lack of support can be explained in several ways. First, we have concerns about the potential unintended consequences that could arise from such a constitutional amendment, and the inability to rectify those consequences for years should the amendment be finalized on such a short timeline. Several states around the country passed Marsy's Law in the past six months alone; we would do well to examine the experience of these other states and their implementation of Marsy's Law before rushing forward with an amendment of our own. This is particularly true given that, unlike many other states that have passed Marsy's Law or similar legislation, we already have clearly defined victim's rights both in statute and in the current constitution. Furthermore, without a serious commitment to large increases in funding for various aspects of the criminal justice system, many of the requirements in this proposal could result in an increased strain on the court system. As we have now seen in other states that have passed Marsy's Law, this is likely to result in new administrative burdens and longer delays for trials as the system attempts to comply with new constitutional provisions, an issue that already plagues victims of crime in Wisconsin today.

Second, while End Abuse is focused on the empowerment of victims of domestic violence, we recognize that due process is a fundamental right that in many ways serves as the foundation of the criminal justice system. The assertion that victims of crime need rights of equal weight to those of the accused is a mischaracterization of how the American criminal justice system functions. Any legislation that trades expanded victim's rights for potential limits on due process could result in a wide array of problems that are as of now unforeseen. Additionally, the impacts of restructuring the courts in this way will not just

negatively impact defendants, but also crime victims as well. While we traditionally think of victims and defendants as existing totally separate from one another, in reality, the lines between them are often murky. The two categories may seem diametrically opposed, but numerous survivors of domestic violence across the state will find themselves sitting in court both as victims and defendants over the course of their journey to safety and empowerment. With these considerations in mind, reforming the criminal justice system does not necessarily mean simply leveling the playing field between victim and accused, but rather making the entire process trauma informed, training the court's representatives to better understand the experience of survivors and ensuring that currently existing resources are adequately funded to better serve victims. This is particularly true given that Wisconsin has some of the most racially disparate criminal justice outcomes in the nation. Changes of this magnitude are bound to affect some communities more than others.

While we appreciate the efforts of the parties involved and the intent of this legislation, we are an organization that represents and responds to the needs of survivors and advocates across the state. The focus on victim's rights is commendable, but what we hear most often from victims and advocates is not that they wish the constitution would be amended, but rather that they are in dire need of a more holistic approach to criminal justice. Victims and advocates talk frequently about lack of access to legal aid, underfunding of county victim witness units, chronically overworked and underpaid DAs and public defenders, restrictions on access to Medicaid and other lifesaving benefits, sparse or nonexistent affordable housing in their area, insufficient focus on interpersonal violence in our education system, and many other issues. If this broad coalition really wants to improve the lives of victims, these are some of the issues we would be thrilled to collaborate on. Although this legislation is a positive step towards recognizing victims' experience in the court system, we would rather work on pressing issues that have been flagged to us by advocates and victims as the ones that are impacting survivors directly every day.

At this time, we are not urging the Legislature to vote against this legislation per se, but rather to take the necessary time to examine its effects in other states before moving forward with such a drastic measure as an amendment to the constitution. With a full two-year session available to watch the implementation of Marsy's Law in other states, proceeding with caution is the right choice for victims. We appreciate the Committee's consideration, feel free to reach out to Chase Tarrier, Public Policy Coordinator at 608 237 3985 or chaset@endabusewi.org with any further questions.