

ICADV Statement Oppose SJR 8 – Marsy’s Crime Victim Rights Amendment

The Iowa Coalition Against Domestic Violence (ICADV) unconditionally supports crime victims and we oppose Marsy’s Amendment (SJR 8). Our opposition is a disagreement over a specific policy- of course we support victims and share the desire to advance victims’ rights and elevate their voices.

We represent local agencies, serving all 99 counties, supporting crime victims, families, and communities with 24/7 free and confidential services. In addition to offering crisis response, these providers assist law enforcement at crime scenes and support sexual assault victims at medical facilities. Lawyers and judges rely on them to accompany, guide, and support survivors in court and legal proceedings.

They work 365 days a year helping survivors obtain housing, health care, jobs, education, and access to safety and services to rebuild their lives. Last year these agencies served 58,000 victims of violent crime. Based on several thousand years of combined experience, every one of our member programs oppose Marsy’s Amendment.

We do not believe a constitutional amendment improves access to rights, services, and the ability to find justice and healing. Establishing constitutional rights without meaningful remedy or resources to ensure access to rights is an empty promise. A victim cannot exercise her right to be heard in court if she can’t afford a lawyer or doesn’t have a job that allows her to take time off or if she has no transportation to the courthouse..or if no one believes her.

Supporters cite problems with victim notification and the re-traumatizing experience of the legal system as the need for this proposal. But a constitutional amendment is the wrong mechanism to fix these problems- it won’t force our state to invest the resources needed to improve victim notification. An amendment can’t make the system less-traumatizing to victims or cure the failure by all of us to address victims’ needs. It takes dedicated resources and people to do that.

Crime victims suffer devastating loss but the insensitivity and indifference victims experience is not limited to the criminal legal system. Unlike current law, this proposal only elevates the rights of the small number of survivors who pursue remedy in criminal court. The majority of crime victims do not or cannot seek remedies in our criminal legal system and regardless, crime victims deserve rights and support beyond what the legal system can offer.

Importantly, the assertion that victims deserve constitutional rights equal to the accused in our criminal legal system inappropriately characterizes its purpose. Defendant rights exist to protect innocent people from arrest, imprisonment, and even death-- *not because rights of the accused are more important than victims.*

The criminal legal system is not designed to mitigate the devastating impact of a crime. Even in the best of circumstances, getting to the truth in a court room is re-traumatizing. Determining innocence or guilt is based on facts and defendants have rights because the price of getting it wrong is too high. Lady Liberty is blind-folded for a reason.

Victim rights serve a completely different purpose aimed at supporting recovery, not protection against government power. Granting constitutional rights to a victim identified at the outset of criminal proceedings contradicts the principal of innocent until proven guilty and threatens due process by creating conflict between victim and defendant rights. And that harms everyone.

Upholding American ideals of justice serves all victims. The distinction between victims and defendants is not a bright line. Often it is unclear who the victim is until a judge or jury sorts things out.

Frequently the presumption of innocence is not experienced by domestic and sexual violence victims. And biases based on race, gender, sexual orientation, or immigration status routinely deny justice to individuals and devastate communities. Women make up a larger proportion of the jail/prison population than ever before, and most are survivors of violence. Iowa ranks third worst among states for racial disparities. Marsy's Amendment makes that problem worse.

Iowa law already includes comprehensive victim rights and protections that aim to meet the needs of all victims and our state has a good sense of needs and gaps in services. Victim needs identified in the 2016 Crime Victim Assistance Division (CVAD) statewide survey include housing, transportation, employment, health care, childcare, counseling, lack of access to legal services, and lack of awareness of rights and services.

We can and should do better and have a good sense of how to do that.

Marsy should not have been murdered and her family should not have encountered her killer in a grocery store a week after her murder. Our providers confront the pain of crime victims every day and fully understand the appeal of this proposal- it's a lot easier to back a constitutional amendment in the name of victims' rights than it is to do the hard work of ensuring access to rights and services...and providing oversight, funding, and enforcement of the laws we already have.

We believe that amending current law or implementing better policies or dedicating the resources and people it would take to ensure systems and services are in place so victims can access their rights- would be more effective than a constitutional amendment.

We have a list of suggestions for you...first, please reject this proposal.

February 19, 2020 – Senate Judiciary Subcommittee