



# Top 5 Reasons to Vote NO on Marsy's Law

## Pennsylvania

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### A billionaire from California is buying constitutional amendments around the country.

Fueled by [over \\$72 million dollars](#) from its founder [Henry Nicholas](#), [Marsy's Law for All](#) lobbies state legislators to adopt its boilerplate "victim's bill of rights" as an amendment to their state constitutions. As of 2019, Marsy's Law has been adopted by [10 states](#). The goal is to reach all 50 states before ultimately amending it into the U.S. Constitution.

#### 1. Marsy's Law promotes a false equivalency of "co-equal" rights for victims and the accused.

Marsy's Law attempts to "restore balance" to our criminal system by granting victims "[co-equal](#)" rights to the accused. While intended to appeal to our sense of fairness, it dangerously ignores the different purposes each right serves. Our constitution vigorously protects the accused, not because the law values defendants more than victims, but because it values protecting individuals from excessive government power. Defendants' rights only apply when the state is attempting to deprive the accused – not the victim – of life, liberty, or property. These rights are designed to be robust in order to effectively check the vast power of the government. Victims' rights, however, are intended to ensure recovery for individuals, not to limit or protect against state power. Granting victims and the accused an equal right to a speedy trial, for example, creates conflict between these sets of rights and only serves to strengthen the state's hand.

#### 2. Marsy's Law undermines due process and upends the presumption of innocence.

Marsy's Law grants rights to victims at the outset of criminal proceedings, giving victims a say in the process before a crime has been established or a person convicted. If someone is presumed to be the victim of a crime before a jury returns a verdict, then the accused is *presumed guilty, not innocent*. Upending the presumption of innocence also [undermines due process](#) protections necessary to defend oneself. Marsy's Law, for example, allows victims to refuse depositions and discovery requests – evidence that could prove a defendant's innocence. By pitting a defendant's right to exculpatory evidence against a victim's right to refuse access to that evidence, Marsy's Law increases the chances of mistakes, abuse, and wrongful convictions. [Victim advocates](#) have opposed Marsy's Law for this very reason, [noting](#) that due process also protects victims, because getting it wrong punishes the innocent and leaves an offender free.

#### 3. Marsy's Law is unnecessary; public officials are failing to enforce the Crime Victims Act.

Pennsylvania's [Crime Victims Act](#) already provides many of the rights granted under Marsy's Law – and more. It isn't the law that fails victims; it's the entities responsible for upholding the law that fail to inform and notify victims of their rights. But Marsy's Law does nothing to fix this problem – it offers no funding to improve services to victims. And by explicitly denying victims the right to sue, Marsy's Law fails to provide an enforcement mechanism to hold state and county entities accountable. Having a constitutional right to be notified doesn't guarantee that the legislature will invest the resources needed to improve victim notification. Marsy's Law makes sweeping promises states can't keep and claims to fix problems constitutions can't solve. Legislators need only amend the statute to do both.

#### 4. Constitutions are not science labs; experimenting with Marsy's Law creates unforeseen costs.

The Marsy's Law narrative is often abstract; it focuses on the intent of the law while obscuring questions about its many unintended consequences. But good intent doesn't fix bad language. Marsy's Law is rife with ambiguous language that has left states unprepared for the [unforeseen challenges](#) of implementing its provisions. State and local officials have complained about [skyrocketing costs](#) and [administrative quagmires](#) in the wake of its adoption. And South Dakota's Marsy's Law created so many [problems](#) that legislators had to [re-amend](#) their amendment just two years after it first passed. Changing the constitution demands careful consideration and amendments are no place for experiments.

#### 5. The Marsy's Law ballot question violates the Pennsylvania Constitution.

Pennsylvania's pending Marsy's Law ballot question is [unconstitutional](#) because it combines many changes into a single amendment – what the Pennsylvania Supreme Court has called "logrolling." The [rules](#) for amending the Pennsylvania Constitution require that changes affecting different sections of the constitution must be voted on as separate amendments. Marsy's Law creates 15 constitutional rights for crime victims that impact three articles and eight different sections of the state constitution. By bundling many amendments into a single "yes" or "no" proposal, the [November 5th ballot question](#) denies voters their right to choose which provisions of Marsy's Law, if any, to adopt. Voters will instead be forced to make an all-or-nothing choice on the proposed constitutional changes.