

Victim's Bill of Rights Act of 2008: Marsy's Law

As a victim in a criminal case, you are entitled to the following rights under Article 1, §28(b) of the California Constitution.

(b) In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following rights:

- (1)** To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.
- (2)** To be reasonably protected from the defendant and persons acting on behalf of the defendant.
- (3)** To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.
- (4)** To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.
- (5)** To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions on the conduct of any such interview to which the victim consents.
- (6)** To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.
- (7)** To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.

- (8)** To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.
- (9)** To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.
- (10)** To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.
- (11)** To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.
- (12)** To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.
- (13)** To restitution.
- (14)** To the prompt return of property when no longer needed as evidence.
- (15)** To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.
- (16)** To have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment release decision is made.
- (17)** To be notified of the availability of community-based restorative justice programs/processes which are available. These include programs which serve the community, county, county jails, juvenile detention facilities, and the Department of Corrections and Rehabilitation.
- (18)** To be informed of the rights enumerated in paragraphs (1) through (17).

For purposes of this law, a “victim” is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term “victim” also includes the person’s spouse, parents, children, siblings, or guardian, and includes a lawful representative of a crime victim who is deceased, a minor, or physically or psychologically incapacitated. The term “victim” does not include a person in custody for a offense, the accused, or a person whom the court finds who would not act in the best interests of a minor victim.

Note: Please be advised that criminal cases may be resolved as early as the first court appearance.