

# MARSY'S LAW: CRIME VICTIM RIGHTS ACT

**Molly Hanes**  
Assistant Public Defender  
Judicial District 10, Wake County

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## FLYOVER

- Brief historical context of Marsy's Law
- What it looks like in practice
- The Actual Law:
  - N.C.G.S. 15A-830
  - N.C. Crime Victims Rights Act
  - FORMS!
- North Carolina Statutes and Constitutional Amendment
- Salacious gossip

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### Brief History: Context is Everything!

- Who is Marsy?
- What happened to her?
- Why did her case become a big deal?
- Why is this legislation controversial?
- Who pushed it & who backed it?

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## WHO WAS MARSY?

- **Marsalee Henry**
- Twenty-one at time of death
- Shot in the head by her suicidal ex boyfriend (Nov. 1983)
- Family had uncomfortable encounter with defendant following her funeral
- Younger sister to tech billionaire Nicholas T. Henry Jr.




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## Why Did Her Case Become A Big Deal?

- Sympathetic victim "all American girl"
- Plenty of money backing the legislation
- **The Real Kicker:** Mom ran into defendant after he bonded  
*"Only one week after her murder and on the way home from the funeral service, Marsy's family stopped at a market to pick up a loaf of bread. It was there, in the checkout line, that Marsy's mother, Marcella, was confronted by her daughter's murderer. Having received no notification from the judicial system, the family had no idea he had been released on bail mere days after Marsy's murder."*

[https://www.marsylaw.us/marsys\\_story](https://www.marsylaw.us/marsys_story)

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## Big Bro: Henry T. Nicholas, Jr.




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WHAT HAVE WE ACCOMPLISHED 30 YEARS LATER?

COULD A SOCIAL WORKER HAVE HELPED?

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**Heavily Lobbied**

- This legislation is easy to push; it feels good
  - Uninformed voters likely to check "yes"
- Group's goal is **U.S. CONSTITUTIONAL AMENDMENT!**
- Obvious issues with this:
  - Will victims have a right to counsel?
  - What about court appointed counsel?
- Complete Cluster!
  - Consider conflict of interest issues with the latter
  - Indigent demographic = lots of defendant/victim overlap

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**MAIN TAKEAWAY:**

- This legislation is all about public perception; it's a FEEL GOOD law
- "Let's make sure criminal defendants don't have more rights than victims."
- [Kelsey Grammer](#)
- Well..., sorry, but they just do: **THEY HAVE THE MOST TO LOSE**
  - Right to an attorney
  - Right to remain silent
  - Right to confront witnesses, etc.
- Its easy to lobby on behalf of victims:  
**"What kind of person can't get on board with legislation that helps poor ole victims of crimes?!?"**

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# DEFENSE ATTORNEYS!!!

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# QUESTIONS BEFORE WE GET KNEE DEEP IN THE LAW?

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**Layout of the Law**

- Crime Victim Right's Act—N.C. Gen. Stat. 15A-830 thru 839
- The CVRA applies to "court proceedings," included, but not limited to:
  - Bond motions
  - Pleas or Deferrals
  - Sentencing hearings
  - Does not apply to first appearances
- Basically anything where the alleged victim could call a DA's office and complain about not being included on what happened in court

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## Span of Coverage

- Victims might wish to be updated at varying spans throughout the criminal process; for example:
  - Being made aware when an offender’s prison sentence has run
  - When someone gets out of jail
  - Location of a sex offender
  - Whether someone gets probation versus an active sentence
- Different duties attach to different agencies, depending on where we are in the “supply chain” of the system

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## 15A-830 DEFINITIONS

- Accused
- Arresting/investigating law enforcement agency
- **Court proceedings**
- Custodial agency
- Family member (where the V is deceased)
- Felony property crime
- Offense against the person
- **Victim**

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## “COURT PROCEEDING”

- A critical stage of the post-arrest process heard by a judge in open court involving a **plea** that disposes of the case or the conviction, **sentencing**, or **release** of the accused, including the hearings described in G.S. 15A-837\*.

\*15A-837 refers to the duties that attach to corrections officers to notify victims of defendant’s release, absconding, parole hearings, etc.

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## “VICTIM” 15A-830 (7)

ANY PERSON against whom there is PC to believe  
an OFFENSE AGAINST the PERSON or  
A FELONY PROPERTY CRIME has been committed

Includes:

IF V is minor =parent, guardian, legal custodian

IF V is deceased = family member (minor’s parent has priority)

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## THE BIG Q

WHICH LAWS ARE COVERED?

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RAPE, MURDER, ARSON AND RAPE. HD 1080P



RAPE! MURDER! ARSON!! RAPE!!!

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### CVRA "ATTACHES" TO THE FOLLOWING:

- Felony property crimes
- Offenses against the person
- Ch. 20 if death results

This is a significant expansion of the old VRA and includes many offenses we routinely see in district court.

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### FELONY PROPERTY CRIMES

- Subchapter IV of Ch. 14
  - Burglary and other housebreakings
  - Arson
- Subchapter V of Ch. 14
  - Property offenses
  - Larceny
  - Embezzlement
  - Robbery
  - Financial crimes
  - Identity theft
  - Forgery

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### OFFENSES AGAINST THE PERSON

- Subchapter III of Ch. 14
  - Homicide
  - Rape
  - Assaults (including misdemeanor assaults)
  - Kidnapping
  - Human trafficking

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### OFFENSES AGAINST PUBLIC MORALITY

- Subchapter VII of Ch. 14
  - Prostitution
  - sex crimes; including offender registration and monitoring

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### CVRA APPLIES TO: DVPO's

- Valid protective orders under G.S. 50B-4.1 (DVPO's) including, but not limited to:
  - Domestic criminal trespass
  - Defendants prohibited from owning firearms pursuant to a DV case
- Ex Parte Temporary DVPO

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### Offenses Against the Public Peace IF:

“Elements of the offense involve communicating a threat or stalking”

#### FOR **DISTRICT COURT** PURPOSES:

- Communicating threats
- Stalking
- Threats of mass violence (many V's there; hard to apply)

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### CATCHALL CATEGORY

**“an offense that triggers the enumerated victims’ rights, as required by the North Carolina Constitution”**

*This final category of offenses against the person, set out in G.S. 15A-830(a)(6a)g., appears to apply the CVRA to offenses that fit the constitutional criterion of Article I, § 37(a), a “crime ... against or involving the person of the victim,” but are not otherwise enumerated in the list above. Which additional offenses satisfy that criterion would appear to be a case-by-case determination by the officials with assigned duties under the CVRA. (This is lifted from side two of AOC-CR-180B).*

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### FOOD FOR THOUGHT

- DECENT ARGUMT CVRA DNA TO MISD. ASSAULTS NON DV?
- MISD LARCENY

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WHAT DO THEY HAVE A  
“RIGHT” TO DO?

§ 15A-830.5. Victim's rights.

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**RIGHT TO: (they get this automatically)**

- “Reasonably heard” at Adjudication, Disposition & Release
- Restitution – in timely manner, when ordered
- Info about: offense, how CJ system works, victims’ rights
- “Reasonably confer” w/ADA

**UPON REQUEST: (must “opt in”)**

- Timely notice of court proceedings
- To be present
- Receive info about adjudication or disposition
- Receive notification of escape or release

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**ASK THE DA WHETHER THESE FORMS HAVE BEEN FILED**

HAS THE V OPTED IN? (if so, how hard?)  
 IF NOT! LET THE JUDGE KNOW; THIS IS NEW LAW  
 POLITELY TEACH!!!

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**“A victim of crime shall be treated with dignity and respect by the criminal justice system.”**

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**A victim has the following rights:**

- The right, upon request, to reasonable, accurate, and timely **notice of court proceedings** of the accused.
- The right, upon request, **to be present at court proceedings** of the accused.
- The right to be **reasonably heard** at court proceedings involving a **plea** that disposes of the case or the **conviction, sentencing, or release** of the accused.
- The right **to receive restitution** in a reasonably timely manner, **when ordered** by the court.

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- The right to be given information **about** the crime, **how the criminal justice system works**, the **rights of victims**, and the **availability of services for victims**.
- The right, **upon request**, to receive information about the conviction or final disposition and sentence of the accused.
- The right, **upon request**, to receive notification of escape, release, proposed parole or pardon of the accused, or notice of a reprieve or commutation of the accused's sentence.

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- The right to **present the victim's views** and concerns **in writing** . . . considering any action that could result in the release of the accused, prior to such action becoming effective.
- The right to **reasonably confer** with the district attorney's office.
- This Article does not create a claim for **damages** against the State, any county or municipality, or any State or county agencies, instrumentalities, officers, or employees.

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# VICTIMS DON'T HAVE A CLAIM FOR DAMAGES

15A-830.5(c)

V can file motion to have "rights" enforced

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**V must file a written complaint w DA's office**

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**NOTE TO VICTIM OR PERSON ASSERTING RIGHTS ON BEHALF OF VICTIM**

**NOTE:** A victim may assert the rights under Article 46 ("Crime Victims' Rights Act") of Chapter 15A by filing a motion within the same criminal proceeding that gave rise to the rights of the victim. Any of the following persons may file the motion:

- the victim;
- the victim's attorney;
- the prosecutor, at the request of the victim;
- a parent, guardian, or legal custodian of the victim, if the victim is a minor or is legally incapacitated;
- a spouse, child, parent, guardian, legal custodian, sibling, or grandparent of the victim (in that order of priority), with the victim's spouse having first priority, if the victim is deceased, (if the deceased victim was a minor, then the guardian or legal custodian of the minor has priority over any other family member.)

The defendant may not assert the rights of the victim. An individual who has first priority to exercise the victim's rights as a family member (spouse, child, parent, guardian, legal custodian, sibling, or grandparent) may designate another family member to act on behalf of the victim. A victim has the right to consult with an attorney regarding an alleged violation of the Crime Victims' Rights Act, but a victim does not have a right to counsel provided at State expense. If the judge fails to review the motion and dispose of it or set it for hearing in a timely manner, the victim may petition the NC Court of Appeals for a writ of mandamus as provided in G.S. 15A-834.5(f).

**PROVISION OF COPIES BY CLERK**

The undersigned hereby certifies that the Office of the Clerk of Superior Court, on the date listed below, provided copies of this motion to the prosecutor in this case (if other than the elected District Attorney), the elected District Attorney, the presiding judge in this case, and (if this motion alleges that a law enforcement agency failed to comply with the rights of the victim) the head of the law enforcement agency referenced in the motion. G.S. 15A-834.5(f).

Date	Name (type or print)	Signature	<input type="checkbox"/> Deputy CSC
			<input type="checkbox"/> Asst. CSC
			<input type="checkbox"/> Clerk Of Superior Court

**ORDER OF JUDGE DISPOSING OF MOTION WITHOUT HEARING OR SETTING HEARING FOR MOTION**

The undersigned, having reviewed this motion as required by G.S. 15A-834.5(g), hereby ORDERS that (select one)

1. this motion be set for hearing, and that the clerk complete and provide the NOTICE OF HEARING below to the person filing the motion, to the prosecutor in this case (if the prosecutor is not the person filing the motion), and (if this motion alleges that a law

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### WHO IS RESPONSIBLE FOR WHAT?

- When does the duty to confer/advise/update victims attach?
- On whom is this onus?
- How can we know whether the V wants to “opt in” to the case at all?
- Are there any **forms** that would be helpful?

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### DUTIES OF STATE ACTORS:

- Begins with **LEO**
  - 15A-831
- District attorney
  - 15A-832
- Judicial officials
  - 15A-832.1
- **FORMS!**
  - AOC-CR-180B
  - AOC-CR-181B

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IF YOU REMEMBER NOTHING...

## INITIAL ONUS IS ON LAW ENFORCEMENT

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G.S. 15A-830	§ 15A-830. Definitions.	Modified by: SL 2019-216 (S682)
G.S. 15A-830.5	§ 15A-830.5. Victim's rights.	Modified by: SL 2019-216 (S682)
G.S. 15A-831	§ 15A-831. Responsibilities of law enforcement agency.	Modified by: SL 2019-216 (S682)
G.S. 15A-831.1	§ 15A-831.1. Polygraph examinations of victims of sexual assaults.	
G.S. 15A-832	§ 15A-832. Responsibilities of the district attorney's office.	Modified by: SL 2019-216 (S682) SL 2019-243 (H470)
G.S. 15A-832.1	§ 15A-832.1. Responsibilities of judicial officials.	Modified by: SL 2019-216 (S682)
G.S. 15A-833	§ 15A-833. Evidence of victim impact.	
G.S. 15A-834	§ 15A-834. Restitution.	
G.S. 15A-834.5	§ 15A-834.5. Enforcement of the rights of a victim.	Modified by: SL 2019-216 (S682)
G.S. 15A-835	§ 15A-835. Posttrial responsibilities.	Modified by: SL 2019-216 (S682)
G.S. 15A-836	§ 15A-836. Responsibilities of agency with custody of defendant.	Modified by: SL 2019-216 (S682)
G.S. 15A-837	§ 15A-837. Responsibilities of Section of Community Corrections of the Division of Adult Correction and Juvenile	

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**§ 15A-831. Responsibilities of Law Enforcement Agency**

As soon as practicable but within 72 hours after identifying a victim covered by this Article, the investigating law enforcement agency shall provide the victim with at least the following information in writing, on a form created by the Conference of District Attorneys(!!!)

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**UNDER 15A-831, LEO MUST PROVIDE:**

- (1) The availability of **medical services**, if needed
- (2) The availability of crime victims' **compensation** funds under Chapter 15B
- (3) The address and telephone number of the [prosecuting] **district attorney's office**
- (4) The name and telephone number of an **investigating law enforcement agency** employee whom the victim may contact if the victim has not been notified of an arrest in the victim's case within six months after the crime was reported to the law enforcement agency
- (5) Information about an accused's opportunity for **pretrial release**.
- (6) The name and telephone number of an **investigating law enforcement agency** employee whom the victim may contact to find out whether the accused has been released from custody
- (7) Info re 50B relationships
- (8) A list of each right enumerated under G.S. 15A-830.5(b).
- (9) Information about "any other rights" afforded to victims by law

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LEO DUTIES: 15A-831

Within 72 hours after the arrest of a person believed to have committed a crime covered by this Article, the arresting law enforcement agency shall inform the investigating law enforcement agency of the arrest.

Following receipt of this information, the investigating law enforcement agency shall notify the victim of the arrest within an additional 72 hours.

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**DUTY BEGINS TO SHIFT FROM LEO → DA:**

- Within 72 hours after receiving notification from the arresting law enforcement agency that the accused has been arrested, **the investigating law enforcement agency shall also forward to the district attorney's office** that will be responsible for prosecuting the case the defendant's name and the victim's name, address, and telephone number or other contact information, unless the **victim refuses to disclose** any or all of the information, in which case, the investigating law enforcement agency **shall so inform the district attorney's office.**

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- (d) Upon receiving the information in subsection (a) of this section, the victim shall, **on a form created by the Conference of District Attorneys** and provided by the investigating law enforcement agency, indicate **whether the victim wishes to receive any further notices** from the investigating law enforcement agency on the status of the accused during the pretrial process.
- If the victim elects to receive further notices during the pretrial process, the victim **shall return the form to the investigating law enforcement agency within 10 business days of receipt of the form.**

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**LEO DUTIES: 15A-831**      **ONUS ON VICTIM!**

The **victim shall be responsible** for notifying the investigating law enforcement agency of any **changes in the victim's name, address, and telephone number.**

Upon receiving a form from the victim pursuant to subsection (d) of this section, the investigating law enforcement agency shall **promptly share the form with the district attorney's office** to facilitate compliance with the victim's preferences on notification.

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**TAKEAWAY RE LEO DUTIES:**

- There is a statutory process that is triggered when a cop responds to a victim crime
- There are victim forms that LEO should be using
- These forms are supposed to go to the DA
- Does the V even want to "opt in?"
- Fair to say we could move cases faster in district court with more V info

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<b>STATE OF NORTH CAROLINA</b>		File No.
County	Incident/Arrest No. (for LEA use only)	
In The General Court Of Justice		
STATE VERSUS	<b>CRIME VICTIMS' RIGHTS ACT VICTIM INFORMATION SHEET (LAW ENFORCEMENT)</b>	
Defendant Name	<b>(For Offenses Committed On Or After Aug. 31, 2019)</b>	
G.S. 15A-831 and 15A-832		
<b>NOTE TO JUDICIAL OFFICIALS:</b> This form is for <b>law enforcement use only.</b> To collect victim information required by G.S. 15A-832 1 when issuing a criminal pleading for a misdemeanor offense covered by the Crime Victims' Rights Act and committed on or after Aug. 31, 2019, based on evidence from a complaining witness other than a law enforcement officer, use form AOC-CR-181B.		
<b>NOTE TO INVESTIGATING LAW ENFORCEMENT AGENCY:</b> G.S. 15A-831(c) provides that for any offense covered by the Crime Victims' Rights Act (see Side Two for a list), "Within 72 hours after receiving notification from the arresting law enforcement agency that the accused has been arrested, the investigating law enforcement agency shall also forward to the district attorney's office that will be responsible for prosecuting the case the defendant's name and the victim's name, address, and telephone number or other contact information, unless the victim refuses to disclose any or all of the information, in which case, the investigating law enforcement agency shall so inform the district attorney's office." <b>DO NOT send this form to the office of the clerk of superior court.</b> G.S. 15A-831(c) requires that it be delivered to the office of the district attorney.		
<b>VICTIM INFORMATION</b>		
Name	Telephone No.	<input type="checkbox"/> Refused to Disclose
Address	Other Contact information (email address, etc.)	<input type="checkbox"/> Refused to Disclose

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The victim  does  does not wish to receive further notices on the status of the accused during the pretrial process.

Name Of Collecting Law Enforcement Personnel (type or print)	Signature	Date
Title	Agency	

**VICTIM NOTIFICATION REQUEST**

**NOTE TO LAW ENFORCEMENT AGENCY AND VICTIM:** Do not complete this section at the beginning of the case. This section will be completed when the victim meets with staff of the district attorney's office.

**NOTE TO VICTIM:** Indicate below whether or not you want to receive notice from the State about trial and post-trial proceedings involving the defendant. For trial proceedings, notice will come from the district attorney's office. For post-trial proceedings, any notice(s) will be provided by the Attorney General's office and/or correctional officials. If you elect to receive any notices, you must notify the relevant office of any change in your address or telephone number. You can change this request at any time by filing an updated copy of this form with your changed preference marked.

I do wish to receive notice of the following (check all that apply):  trial proceedings  post-trial proceedings.

I do not wish to receive notice of further proceedings.

(NOTE: You still might be subpoenaed as a witness or otherwise required to appear when needed for certain proceedings.)

Signature	Date
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**NOTE TO DISTRICT ATTORNEY:** If the defendant is convicted of an offense covered by the Crime Victims' Rights Act (CVRA), meaning any offense identified in G.S. 15A-830 (see Side Two for a list), provide this form to the court at the time of sentencing, G.S. 15A-832(g). If defendant appeals to the appellate division, forward a copy of this form to the Attorney General, G.S. 15A-835(b). **DO NOT file this form with the clerk for a defendant not convicted of an offense covered by the CVRA.**

**NOTE TO CLERK:** If defendant is convicted, forward this form along with the judgment of conviction to the agency that will have custody of the defendant. The custodial agency will maintain this information as a confidential file, G.S. 15A-832(g). If defendant is not sentenced to active imprisonment or supervised probation (i.e., the defendant gets unsupervised probation or only a fine), return this form to the district attorney. **DO NOT retain a copy in the case file.**

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**CRIME VICTIMS' RIGHTS ACT OFFENSES**

For offenses committed on or after Aug. 31, 2019, the provisions of G.S. 15A, Article 46 (the Crime Victims' Rights Act, or CVRA) apply only to victims of offenses listed in G.S. 15A-830. The list below identifies those offenses.

For offenses committed before Aug. 31, 2019, see forms AOC-CR-180A and AOC-CR-181A.

**CVRA Offenses Committed On Or After Aug. 31, 2019**

For offenses committed on or after Aug. 31, 2019, the CVRA applies to victims of offenses listed in G.S. 15A-830(a)(3b) (felony property crime) or 15A-830(a)(6a) (offense against the person).

- A **felony property crime** is any felony set out in:
  - Subchapter IV of Chapter 14 of the General Statutes (G.S. 14-51 through 14-69.3); or
  - Subchapter V of Chapter 14 of the General Statutes (G.S. 14-70 through 14-125).
- An **offense against the person** is an offense involving the person of the victim which constitutes a violation of:
  - Subchapter III of Chapter 14 of the General Statutes (G.S. 14-17 through 14-50.43);
  - Subchapter VII of Chapter 14 of the General Statutes (G.S. 14-177 through 14-208.45);
  - Article 39 of Chapter 14 of the General Statutes (G.S. 14-313 through 14-321.2);
  - Chapter 20 of the General Statutes, if an element of the offense involves impairment of the defendant, or injury or death to the victim;
  - A valid protective order under G.S. 50B-4.1, including, but not limited to, G.S. 14-134.3 and G.S. 14-269.8;
  - Article 35 of Chapter 14 of the General Statutes (G.S. 14-269 through 14-277.8), if the elements of the offense involve communicating a threat or stalking; or
  - An offense that triggers the enumerated victims' rights, as required by the North Carolina Constitution.\*

\* This final category of offenses against the person, set out in G.S. 15A-830(a)(6a)(g), appears to apply the CVRA to offenses that fit the constitutional criterion of Article I, § 37(a), a "crime ... against or involving the person of the victim," but are not otherwise enumerated in the list above. Which additional offenses satisfy that criterion would appear to be a case-by-case determination by the officials with assigned duties under the CVRA.

**INFORMATION FOR VICTIMS**

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**§ 15A-832. Responsibilities of District Attorney's Office:**

Within **21 days after the arrest of the accused, but not less than 24 hours before the accused's first scheduled probable-cause hearing**, the district attorney's office shall provide to the victim a pamphlet or other written material that explains in a clear and concise manner the following:

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(1) The victim's rights under this Article (right to **reasonably confer** w DA about disposition of case & right to provide a **victim impact statement**)  
 (2) The **responsibilities** of the DA's office  
 (3) The victim's **eligibility for compensation** under the Crime Victims Compensation Act and deadlines thereto  
 (4) The **steps generally taken by the DA's office** when prosecuting a crime  
 (5) Suggestions on what the victim should **do if threatened or intimidated** by the accused or someone acting on the accused's behalf.  
 (6) The name and telephone number of a **victim and witness assistant** in the district attorney's office whom the victim may contact for further information.

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- The district attorney's office shall notify a victim of the **date, time, and place of all court proceedings of the type that the victim has elected to receive** notice.
- All **notices** required to be given by the district attorney's office shall be reasonable, accurate, and timely.
- The notices shall be given in a manner that is **reasonably calculated to be received** by the victim prior to the date of the court proceeding.
- The district attorney's office may provide the required notification **electronically or by telephone**, unless the victim requests otherwise.
- The notifications **required** by this section **shall be documented** by the district attorney's office.

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**SUBJECT TO DISCOVERY?**

**WHAT IF V INFO CONTAINS EXCULPATORY INFO?**

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**15A-832; DA DUTIES CONT'D:**

- Secure waiting area (if V requests)
- The DA shall offer the victim the opportunity to **reasonably confer with an attorney** from the district attorney's office to:
  - obtain the views of the victim about, at a minimum, dismissal, plea or negotiations, sentencing, and any pretrial diversion programs.

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(g) At the sentencing hearing, the **prosecuting attorney shall submit to the court a copy of a form containing the identifying information set forth in G.S. 15A-831(c)** about any victim's electing to receive further notices under this Article....

**This/these files are supposed to follow the defendant's file from bail/jail/prison/release**

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**§ 15A-832.1 Responsibilities of Judicial Officials**

- Magistrates issuing warrants
- Judges during bond hearings

15A-832.1(c)

"The judge, in any court proceeding subject to this Article, shall inquire as to whether the victim is present and wishes to be heard."

- Can be oral/written/video

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# CVRA FORMS

- ARE YOU SEEING THESE FORMS INSIDE COURT FILES?
- There are OPT IN portions on both forms
- **AOC-CR-180B**
  - LEO INITIATED FORM; Original form LEO should use to collect V info
  - "within 72 hours..."
- **AOC-CR-181B**
  - VICTIM INITIATED FORM

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**STATE OF NORTH CAROLINA** File No. \_\_\_\_\_

\_\_\_\_\_ County In The General Court Of Justice  
District Court Division

**STATE VERSUS**

Defendant Name \_\_\_\_\_

**CRIME VICTIMS' RIGHTS ACT  
MISDEMEANOR VICTIM INFORMATION  
SHEET**  
(For Offenses Committed On Or After Aug. 31, 2019)

G.S. 15A-832.1

**NOTE TO LAW ENFORCEMENT:** Do not use this form. This form is for use only by a judicial official issuing a criminal pleading for a misdemeanor offense against the person, as defined in G.S. 15A-830(a)(6a), based on evidence from a complaining witness other than a law enforcement officer. To collect victim information for delivery to the district attorney for an offense committed on or after Aug. 31, 2019, and covered by the Crime Victims' Rights Act, use form AOC-CR-180B.

**NOTE TO JUDICIAL OFFICIAL ISSUING CHARGES:** Do not use this form for a domestic violence misdemeanor under the Crime Victims' Rights Act committed before Aug. 31, 2019. Instead use form AOC-CR-181A.

For offenses committed on or after Aug. 31, 2019, complete this form when issuing any criminal pleading that charges a misdemeanor offense against the person, as defined in G.S. 15A-830(a)(6a) (see Side Two for a list), based only on evidence from a complaining witness other than a law enforcement officer. Deliver this form to the clerk of superior court by close of the next business day. Enter the victim's name, address, and telephone number below, unless the victim refuses to disclose some or all of the information, in which case mark the field(s) that the victim refused to disclose.

**VICTIM INFORMATION**

Name _____	Telephone No. _____	<input type="checkbox"/> Refused to Disclose
Address _____	Other Contact Information (email address, etc.) _____	<input type="checkbox"/> Refused to Disclose

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Name Of Collecting Judicial Official (type or print) \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

Magistrate  Clerk Of Superior Court  Assistant CSC  Deputy CSC  District Court Judge  Superior Court Judge

**NOTE TO CLERK:** DO NOT place this form in the case file. Within 72 hours of receipt, forward this form to the district attorney. Do not retain a copy.

**VICTIM NOTIFICATION REQUEST**

**NOTE TO JUDICIAL OFFICIAL AND VICTIM:** Do not complete this section at the time the charge(s) is initiated. This section will be completed when the victim meets with staff of the district attorney's office.

**NOTE TO VICTIM:** Indicate below whether or not you want to receive notice from the State about trial and post-trial proceedings involving the defendant. For trial proceedings, notice will come from the district attorney's office. For post-trial proceedings, any notice(s) will be provided by the Attorney General's office and/or correctional officials. If you elect to receive any notices, you must notify the relevant office of any change in your address or telephone number. You can change this request at any time by filing an updated copy of this form with your changed preference marked.

I do wish to receive notice of the following (check all that apply):  trial proceedings.  post-trial proceedings.

I do not wish to receive notice of further proceedings.

(NOTE: You still might be subpoenaed as a witness or otherwise required to appear when needed for certain proceedings.)

Signature \_\_\_\_\_ Date \_\_\_\_\_

**NOTE TO DISTRICT ATTORNEY:** If the defendant is convicted of an offense covered by the Crime Victims' Rights Act (CVRA), meaning any offense identified in G.S. 15A-830 (see Side Two for a list), provide this form to the court at the time of sentencing. G.S. 15A-832(g). If defendant appeals to the appellate division, forward a copy of this form to the Attorney General. G.S. 15A-835(b). DO NOT file this form with the clerk for a defendant not convicted of an offense covered by the CVRA.

**NOTE TO CLERK:** If defendant is convicted, forward this form along with the judgment of conviction to the agency that will have custody of the defendant. The custodial agency will maintain this information as a confidential file. G.S. 15A-832(g). If defendant is not sentenced to active imprisonment or supervised probation (i.e., the defendant gets unsupervised probation or only a fine), return this form to the district attorney. DO NOT retain a copy in the case file.

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### How Does Marsy’s Law Hinder Our Practice?

SHORT ANSWER: **IT KEEPS OUR CLIENTS IN JAIL!!!**

- Bond motions; Guilty pleas; deferrals
- Particular pain points as CVRA relates to public defense
  - Unfairly discriminates against indigent folk
  - State’s witnesses and “victims” are often AWOL/unable to be subpoenaed, etc.
  - Difficulties in filing written bond motions without having previously met client

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## HORROR STORIES!?!

What’s Happening In Your Courtroom?

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### TIPS

Right to be “Reasonably heard”

- **PREPARE** your client – don’t show disrespect for victim!
- Letter of **apology** (when appropriate and sincere)

At BOND hearing =

Argue D **WILL** come to court (no history of FTA)

CAN order **no contact** to protect victim

Unless DV relationship, make “efforts” to contact victim

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### EXAMPLE:

- State cites CVRA to oppose a motion to have a bond unsecured:
  - “Well Judge, we haven’t had a chance to talk to the victim....”

**Flimsy?**

- INITIAL ONUS IS ON LAW ENFORCEMENT

**WE SHOULD BE ADVOCATING THAT IF THIS FORM IS NOT IN THE SHUCK OR W THE DA, CVRA DOES NOT ATTACH.**

[AOC-CR-180B](#)

ASK IF DA’S OFFICE HAS RECEIVED **FORMS!**

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### MARSY’S LAW FOR NC: CRIME VICTIM RIGHTS ACT

- In November 1996, North Carolina voters amended the State Constitution by adding Section 37 of Article 1
- The amendment provides that victims of crime, as prescribed by law, shall be entitled to certain basic rights.
- **1995**—NORTH CAROLINA constitutional amendment conferring rights to legislators to delineate which crimes and victims are covered. N.C. Const. art. I, § 37 (1995).
- 2018—Crime Victim Right’s Act (Marsy’s Law) passed, further enumerating (and expanding) the list of applicable crimes

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### SOME STATES ARE REPEALING

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### Dr. Henry T. Nicholas, Jr.

- Tech Billionaire; co-founder of Broadcom
- Junior Jeffrey Epstein (underground lair in LA home; drugs, prostitutes)
- Vanity Fair article: "[Dr. Nicholas and Mr. Hyde: Sex, Lies and Underground Lairs](#),"
- He and his girlfriend were arrested and charged with drug trafficking in 2018
- She was passed out in a LA hotel doing whippets and coke; Nicholas found her unresponsive, and called the cops
- He and girlfriend took an Alford plea to drug charges; [avoided jail time](#) by donating 1m to local drug tx programs and undergoing tx themselves
- Allegations stated that he once got so stoned on his private plane, the pilot had to don an oxygen mask (talk about flyin' high!!!)
- **Basically he bankrolled the efforts to implement Marsy's Law, to the tune of \$4.9 MILLION in campaign contributions.**

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### Dr. Henry T. Nicholas Jr.



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### Underground Lair!

- Big partier!!
- Would spike drinks w Ecstasy!
- Worth \$1.8 billion in 2008, per Forbes
- Also charged w securities fraud pursuant to his role at Broadcom



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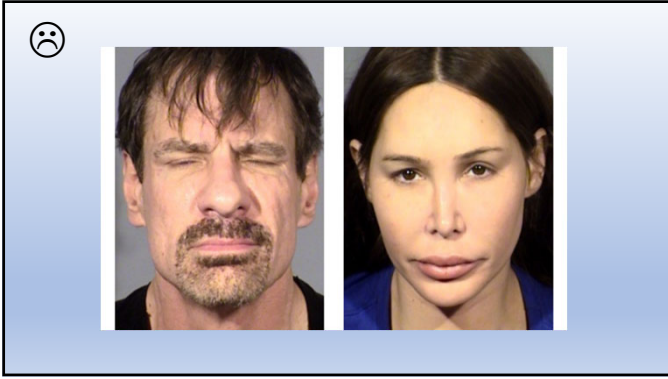
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JUVENILE COURT

Mary Stansell  
Chief Juvenile PD

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## Doesn't mean ADA has to do what victim says!!

Prepare for State to be less flexible  
 Search media: is victim vocally upset?  
 Show ADA client's apology letter  
 (especially if it's also in media!)  
 Ask for mediation – restorative justice practices  
  
 This also helps victim feel heard!!

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## Victims' request to review intake decision 7B-1704

Request prosecutor to review JCC's decision not to file/divert  
 JCC now has to notify victim (not just complainant/LEO)  
 Victim has 5 days from notice to request ADA review  
 ADA has 20 days to complete review  
 1) Affirm JCC decision or  
 2) Direct JCC to file petition  
  
 May start seeing petitions brought **because** victim complained?  
 TIPS:  
 Try for ADA deferral - kid not need probation just b/c victim is mad  
 Remind ADA and Judge that Juv. Ct is for rehab (not punishment!)

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Right to "Receive notification of escape or release"  
 (45 days prior to PRS)

At ANY disposition that commits juvenile to YDC:

ASK Ct to order that JD atty be notified of PRS planning

If JCC wants to extend commitment (not release):  
 File MFR to request hearing

Take decision from DJJ – **MAKE judge decide!**

Advocate for release (YDC is for rehab =NOT punishment)  
 Counter victim's wanting longer incarceration as  
 "punishment"

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**RESTITUTION** not just VRA issue!

Still MUST be finding of juvenile's ability to pay! (NOT parent's)  
In re *Heil*, 145 NC App 24  
Still MUST be "fair" to juvenile & in best interest of juvenile  
(NOT to make victim whole)  
In Re: *DAQ*, 214 N.C. App 535  
Still capped by 7B-2506(4) for Level 1 = \$500  
7B-2506(22) can go >\$500 BUT "payable w/in 12 months"  
Dept of Labor laws – must be 14yo and teen hours/times limited

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Resources Open to Public:

- VINELINK
  - P2C – public to citizen county website
  - CCBI website (jail stuff)
  - <https://www.ncdps.gov/dps-services/victim-services>
- GOOD ARTICLE FROM THE INDY:

<https://indyweek.com/news/northcarolina/the-case-against-marsys-law-victims-rights/>

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FURTHER RESEARCH

- <https://nccriminallaw.sog.unc.edu/marsys-law-north-carolina/>
- [https://www.ncjrs.gov/ovc\\_archives/ncvrw/2005/pg4b.html](https://www.ncjrs.gov/ovc_archives/ncvrw/2005/pg4b.html)
- Exhaustive list of federal legislation
- Bill summaries <https://lrs.sog.unc.edu/bill-summaries-lookup/S/682/2019-2020%20Session/S682>
- N.C. Conference of District Attorneys "Crime Victim's Rights" page
- <http://www.ncdistrictattorney.org/victimrights.html>

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### Dr. Nicholas—TAWDRY Y’ALL!

- <https://www.forbes.com/sites/willyakowicz/2019/10/02/broadcom-billionaire-henry-nicholas-avoids-jail-time-in-vegas-strip-drug-case/#7aa6396d43b2>
- <https://www.oregister.com/2019/02/13/orange-county-tech-billionaire-henry-t-nicholas-iii-charged-with-drug-trafficking-following-las-vegas-arrest/>
- <https://www.vanityfair.com/news/2008/11/nicholas200811>

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### Marsy’s Law Websites

- [https://www.marsyslaw.us/marsys\\_story](https://www.marsyslaw.us/marsys_story)
- <https://www.themarshallproject.org/2018/05/22/nicholas-law>
- [https://www.marsyslaw.us/marsys\\_story](https://www.marsyslaw.us/marsys_story)

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### Mary Stansell

919-792-5488  
[marydstansell@yahoo.com](mailto:marydstansell@yahoo.com)

### Molly Hanes

919-792-5493  
[molly.h.hanes@nccourts.org](mailto:molly.h.hanes@nccourts.org)

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