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VIOLENCE AGAINST WOMEN ACT AND MARSY'S LAW

By Elena Gutbrod and Hannah Yeack

For battered women, thirty years¹ of unaccountability for domestic and sexual² violence crimes instilled distrust and an inclination to not report the violence they endured at the hands of their abusers,³ to suffer in silence and to be swept into a cycle of abuse, which often ends in death.⁴ The history of the domestic and sexual abuse of American Indian, Alaskan Indian and Native⁵ women⁶ has recently been brought to enough light only to spark remedial action. Community-based action designed to address these issues has been in place for centuries, but United States government action has been sparse to none.⁷ While the 2013 reauthorization of the Violence Against Women Act ("VAWA")⁸ implemented a minor victory for victim-survivors of domestic and sexual abuse, victim-survivors who identify as American Indian, Alaskan Indian or Native women⁹ find no path forward in VAWA.



This article advocates for an addition to and an expansion of VAWA that will forge a path for American Indian, Alaskan Indian and Native women to enjoy the same due process rights and the constitutional protections currently ensured to their assailants. By implementing a provision in VAWA like “Marsy’s Law,”¹⁰ tribal governments will have additional tools to rehabilitate¹¹ victim-survivors and to cultivate a path out of the cycle of violence that often chains these women.

Providing substantive and procedural protections for Native American victim-survivors of domestic violence on tribal reservations will help to cultivate trust in the legal system for Native victim-survivors and, consequently, will result in higher reporting rates, protect the legal rights and the emotional well-being of victim-survivors as they reconcile and recover from their trauma and enable them to take back their dignity and control over their life.

The federal government used statutes and Supreme Court decisions to strip tribal governments’ inherent sovereignty

The federal government’s history of infringement upon the inherent sovereignty of tribal governments is long-winded and far-reaching. In 1817, the federal government used the General Crimes Act to impose federal criminal laws on tribal reservations, eliminating tribal governments’ jurisdiction to prosecute certain crimes.¹² While the Act preserved tribal authority to prosecute intra-tribe crime—meaning a crime by an Indian against another Indian¹³—tribes lacked all authority to prosecute the enumerated crimes¹⁴ in the act, if committed by non-Indians, even if they were committed against a tribe member.

Soon after, the Supreme Court issued a decision in *Cherokee Nation v. Georgia*, wherein the Court characterized tribal governments as either not being “states” or as being “foreign states” for the purposes of the Constitution.¹⁵ The Court labeled tribal governments as such, relying primarily upon a short phrase from the eighth section of the third article of the Constitution which empowers Congress to “regulate commerce with foreign nations, and among the several states, and with the Indian tribes.”¹⁶ Removing the right of tribes to bring claims in federal courts, the Supreme Court



determined it was “not the tribunal which can redress the past or prevent the future.”¹⁷ However, even more concerning than the holding of the case was the dicta asserted by the Court regarding American Indians:

[M]eanwhile they are in a state of pupillage. Their relations to the United States resemble that of a ward to his guardian. They look to our government for protection; rely upon its kindness and its power; appeal to it for relief to their wants; and address the President as their great father.

This paternalistic view perpetuated a false narrative and perception of American Indian and Alaskan Indian people—that they were an incompetent people who would not survive nor thrive without the federal government.

In 1886, under the Major Crimes Act, the federal government further removed jurisdiction from tribes for certain serious crimes, this time including intra-tribe crimes.¹⁸ The Act removed tribal jurisdiction to prosecute the following crimes: murder, manslaughter, kidnapping, maiming, felony under chapter 109A, incest, assault with

intent to commit murder, assault with a deadly weapon, assault resulting in serious bodily injury, assault against a minor under 16 years old, arson, burglary, robbery, felony crimes under § 661 of Chapter 18 and felony child abuse or neglect.¹⁹ This rescission of jurisdiction resulted in the vast majority of these severe crimes going unpunished.²⁰

Public Law 280 then authorized the federal government to transfer partial criminal jurisdiction to the state where the crime occurred.²¹ This transfer of jurisdiction led to what scholars describe as “a complicated web of concurrent and exclusive jurisdictions between the tribal, state and federal governments that differed based on location, crime, offender and victim.”²² In 1978, the Supreme Court delivered the final, crushing blow to tribal governments in *Oliphant v. Suquamish Indian Tribe*.²³ The Court based its reasoning, in part, on one Arkansas district court’s decision that a tribe did not have jurisdiction to prosecute a non-Indian,²⁴ and the conclusory “shared presumption of Congress, the Executive Branch and lower federal courts that tribal courts do not have the power to try non-Indians[.]”²⁵ The Court ultimately held that tribes have no criminal jurisdiction over non-tribal members.²⁶

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The federal government created a prosecutorial nightmare

Without the jurisdiction to prosecute both non-tribal members and domestic violence crimes occurring on their own land, tribal courts lacked the power to punish domestic violence offenders and to protect the Native women living on reservations.

Unfortunately, non-Indian and non-tribal men are the main perpetrators of domestic and sexual violence against American Indian, Alaskan Indian and Native women.²⁷ The National Institute of Justice found that of the 55% of American Indian and Alaska Native women who experienced domestic violence at the hands of an intimate partner, 90% of these women reported the violence was at the hand of a non-Indian abuser.²⁸

The federal government's legislation ensured the U.S. Attorney's Office was the sole entity empowered to prosecute countless enumerated crimes. Yet, the U.S. Attorney's Office declined to prosecute 50% of the 9,000 Native and Indian country matters referred to them between 2005 and 2009.²⁹ Further, of the 77% of referred matters categorized as "violent," the office declined to prosecute 52% of them.³⁰ Thus, thousands of crimes go unprosecuted. Notably, these numbers reflect only the reported crimes.³¹

Victim-survivors of sexual violence historically underreport, with only 310 out of every 1,000 sexual assaults being reported to police, particularly by victim-survivors who believe, often with good reason, that reporting will do nothing to help their position and may actually end up causing them more pain.³² This high rejection rate for crimes on Native territory effectively renders these violent crimes immune from punishment.³³ The following review of current laws which purport to protect victim-survivors of domestic violence rarely do so.

The Tribal Law and Order Act fails to protect victim-survivors of domestic abuse while affording due process protections to defendants

In 2010, Congress enacted the Tribal Law and Order Act ("TLOA")³⁴ which "helps to address crime in tribal communities and places a strong emphasis on decreasing violence against American Indian and Alaska Native Women."³⁵ An important provision of TLOA grants tribal courts the sentencing power of up to three years imprisonment and up to a \$15,000 fine,³⁶ but the Act is specific to enumerated crimes³⁷ only.³⁸ Nevertheless, this provision and enhanced sentencing authority are only available to tribes that ensure specific procedural safeguards to the accused.³⁹ The tribal courts must: (1) provide the defendant with effective assistance of counsel at least equal to that guaranteed by the Constitution; (2) at its own expense, provide an indigent defendant a defense attorney licensed to practice; (3) require the judge to have sufficient legal training and be licensed to practice law; (4) make available the applicable criminal laws, rules of evidence and rules of criminal procedure of the tribal court; and (5) maintain a record of the proceeding.⁴⁰

While TLOA seems to be a step in the right direction, the Act fails to address the high rate of unprosecuted domestic violence crimes against American Indian, Alaskan Indian and Native women: TLOA provides higher sentencing power, but the Act did not extend tribal



jurisdiction to domestic violence and sexual crimes perpetrated by non-Native men.⁴¹ As discussed above, non-Native men commit the vast majority of domestic crimes against Native women,⁴² meaning TLOA fails to increase the number of crimes tribal governments can prosecute.⁴³

Violence Against Women Act

The Violence Against Women Act (VAWA) was landmark legislation first passed in 1994 and was signed into law as part of the Violent Crime Control and Law Enforcement Act.⁴⁴ It was the first federal law to explicitly provide recognition of several domestic violence and sexual crimes along with policies to address them as they often were, intimate partner violence.⁴⁵ The main policy goal of VAWA is to prevent and respond to crimes of sexual violence or of sexual motivation against women, while addressing the needs⁴⁶ of victim-survivors.⁴⁷ VAWA's main way of accomplishing this is through providing grants to governments, nonprofit organizations, and universities.⁴⁸ However, since this legislation was written predominantly for and by white people,⁴⁹ VAWA failed then, and continues to fail now, to understand and address the complexities of addressing sexual and domestic violence in non-white communities and cultures. Astonishingly, the 1994 enactment contained no provision addressing violence against Alaskan Indian and American Indian women and, even worse, Native women were not included under VAWA until 2013.⁵⁰

Included in the 2013 reauthorization was a provision called Special Domestic Violence Criminal Jurisdiction ("SDVCJ"), which granted tribal governments jurisdiction to prosecute domestic violence



crimes in narrow situations.⁵¹ Under SDVCJ, tribal courts may exercise jurisdiction for violence committed by the following: a current or former spouse or intimate partner of a victim, a person with whom the victim shares a child, a person who currently or previously cohabited with the victim or a person similarly situated to the spouse of the victim.⁵² While this seems to bridge the gap in prosecutions,⁵³ additional requirements, such as requiring the perpetrator to have “sufficient ties” to the tribe as well as the crime occurring on Indian territory⁵⁴ demonstrate the narrow situations in which SDVCJ may be exercised.⁵⁵

VAWA is currently up for reauthorization. It passed in the House of Representatives in March of 2021 and, as of April of 2022, has not yet been introduced in the Senate.⁵⁶ Proposed changes include adjustments to jurisdiction in tribal lands, validation of protection orders no matter if the entity issuing it is of the U.S. government or a tribal government and an expansion of *Title IX: Safety for Indian Women*.⁵⁷ The expansion of this section acknowledges that Native women are 2.5 times more likely

to experience violent crime and twice as likely to experience sexual violence when compared to all other races,⁵⁸ and seeks to address this through both more measures and an increase in available funding for tribal governments. The reauthorization also includes the new Forensic-medical and Advocacy Services for Tribes initiative (FAST).⁵⁹ FAST sets aside \$14,000,000 in grants for tribal governments, organizations, nonprofits and other recognized groups to help them offer medical services such as sexual assault forensic exams (SAFE exams), and to better fund their medical resources for victim-survivors of sexual violence.⁶⁰

However, despite expansion, the current proposed changes fail to address any of the core problems that were first created by the United States government and Supreme Court, such as the lack of societal recognition of Natives and all other minorities as individuals, rather than a monolith,⁶¹ and the systemic oppression of all Natives⁶² which has created countless double-binds and nearly inescapable oppression.⁶³ While VAWA works to provide funding and recognize tribal governments as the legitimate entities they are, it nonetheless provides (sometimes literally) band-aids for bullet wounds.

Marsy's Law

Marsy's Law (the “Law”) first came to existence in California following the 1983 murder of Marsalee Nicholas at the hands of her ex-boyfriend-turned-stalker.⁶⁴ One week after her death, her family ran into Marsalee's murderer in town: Courts released him on bail only days after his arrest and charging. The officials handling the murder case were under no obligation to inform the family of his release, resulting in further pain for the family.

Marsy's Law strives to resolve the discrepancy between the rights of the accused and the rights of victim-survivors.⁶⁵ Unlike numerous past victim's rights initiatives, Marsy's Law is the only major legislation that seeks to put victims and perpetrators on equal footing in the court.⁶⁶ Thus far, twelve states have enacted a version of Marsy's Law as a state constitutional amendment.⁶⁷

The goal of Marsy's Law is to “secure [justice] for victims” and provide them

with certain rights, including the right to be heard in court, to be protected from the accused, to be treated with dignity and respect, to refuse an interview or deposition at the request of the accused, to be notified of any changes in the criminal case of the perpetrator or any releases of the perpetrator from prison and of their rights as a victim.⁶⁸ Examples of how these rights may take form from one of the author's experiences in the field are given below.

First, the victims may be heard in a courtroom by reading a victim impact statement, which allows them the space to tell their story to the accused, the judge and, when applicable, the jury. This allows the victim's wishes in sentencing or other court outcomes to be part of the conversation. Second, protection from the accused may take the form of redacting their private information such as their address or phone number from all released court records, so the accused can not easily harass or harm the victim further. Third, the right to be treated with dignity and respect ensures cordial and professional behavior towards the victim from all members of the courtroom by making any lack of professional behavior a violation of the victim's rights and subject to redress. While the authors would like to believe that judges, prosecutors and even defense attorneys would be kind to victims regardless of their professional objectives, that is sadly not always the case. Fourth, they can refuse a deposition or interview. One right that the accused has is to request an interview or deposition be made by the victim, but many victims find this process overwhelming and extremely difficult. By providing them the right to decline such requests, Marsy's Law once again keeps their interests at the table as well as the accused. Fifth and lastly, the right to be notified of any changes in the criminal case or releases of the accused or perpetrator affords the victim peace of mind and a mild sense of control over their life again. Moving on from their victimization will always be hard, but Marsy's Law helps to ensure that victim-survivors do not have to wonder if or when their rapist or abuser might simply show up one day, released from government custody, and on their doorstep.

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In short, Marsy's Law aims to afford the victims the same rights as the accused perpetrators. The Law's aim, however, continues to draw criticism. Since the movement towards victims' rights began, scholars and organizations have written on the impacts and dangers of Marsy's law and its progeny—the main criticism being fear that implementation of this Law will violate a defendant's due process rights.⁶⁹ The American Civil Union (the "ACLU") and journalists objected to specific provisions allowing victims to be present and read statements at proceedings.⁷⁰ Susan Bandas, a writer for *The Atlantic*, wrote an article analyzing the Supreme Court decision in *Payne v. Tennessee* which permitted victim statements at sentencing hearings.⁷¹ "Researchers and others have found that emotional statements from the victim in court can make jurors angry and more eager to punish defendants—particularly when a victim is white."⁷²

While the ACLU and other critics present valid concerns, the authors are not persuaded by the criticism of Marsy's Law, especially given the authors' proposed use of the Law as a supplement to VAWA. For example, under TOLA, tribal courts have a ceiling on their sentencing power.⁷³ The tribal courts are without authority to impose a greater sentence of three years or a maximum of \$15,000. Therefore, the punitive tendencies of a jury will not be realizable with the current ceiling on sentencing.

Legislators must implement Marsy's Law into the current VAWA

As noted above, while the 2013 reauthorization of VAWA was a victory for American Indian, Alaskan Indian and Native women, the Special Domestic Violence Criminal Jurisdiction (SDVCJ), in conjunction with the Tribal Law and Order Act (TLOA), are assailant-centric. TLOA serves to provide the defendant with the rights afforded those in federal or state courts,⁷⁴ and SDVCJ provides no recourse for the victim-survivor beyond the prosecution of their perpetrator.⁷⁵ Implementing Marsy's Law⁷⁶ is instructive. Lawmakers should not look to Marsy's Law merely for guidance; they should actively adopt parts of the Law into VAWA to ensure the focus of the Act is actually victim-centric and to afford the affected victim-survivors the same protections afforded to their assailants.

Ohio implemented its version of Marsy's Law into the Ohio Constitution in February of 2018.⁷⁷ The introduction of the provision states, "To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, which shall be protected in a manner no less vigorous than the rights afforded to the accused[.]"⁷⁸ In Ohio, Marsy's Law affords victims the right to be heard, the right to be present at proceedings, the right to restitution, the right to certain notifications surrounding the case and several others.⁷⁹ American Indian and Alaskan Indian women deserve the same protections afforded their assailants, and a pathway to help domestic violence victims achieve these protections, lawmakers must incorporate the following provisions of Marsy's Law into VAWA:

- Reasonable and timely notice of all public proceedings and the option to be present at all such proceedings;
- To be heard in any public proceeding involving release, plea, sentencing, disposition or parole in which a right of the victim is implicated;
- To reasonable protection from the accused or anyone acting on behalf of the accused;
- To reasonable notice of release or escape of the accused;
- To full and timely restitution from the accused;
- To confer with the attorney for the government; and
- To be informed, in writing, of all rights enumerated in this section.⁸⁰

Lawmakers must implement Marsy's Law for tribal governments through VAWA. The Law is a crucial step in building back trust between Native women and the federal government, and is essential to protect the rights and emotional well-being of victim-survivors as they take back their dignity and control of their life. This needs to happen at a federal level, not just at a state level, to ensure clarity and uniformity for victims across jurisdictions. As necessary as this is, it is still just one step among many, many more avenues of justice that need to be taken into consideration if the United States is ever going to atone for its history, and in many ways, its present.

1. *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978).
2. Domestic and sexual violence are two distinct but deeply connected forms of abuse. While domestic violence often includes sexual violence, and vice versa, they can and do exist separately for many victims. For more background information about sexual violence see Types of sexual violence, RAINN, <https://www.rainn.org/types-sexual-violence>; and for domestic violence see What is domestic abuse?, United Nations, <https://www.un.org/en/coronavirus/what-is-domestic-abuse>.
3. Victor Holcomb, Prosecution of Non-Indians for Non-Serious Offenses Committed Against Indians in Indian Country, 75 N.D. L. REV. 761 (1999).
4. Rinku Sen, Between a Rock & a Hard Place: Domestic Violence in Communities of Color, *Colorlines Magazine*, 27 (1999).
5. Women belonging to these groups prefer differing terms to signify their heritage and culture. Other terms women may use include Tribal, Native American, Indigenous, and Indian. Some of these terms are used interchangeably throughout this article, depending on which word the authors felt best captured the concept at the time.
6. See generally, The Facts on Violence Against American Indian/American Native Women Fact Sheet, FUTURES WITHOUT VIOLENCE <https://www.futureswithoutviolence.org/wp-content/uploads/AI-AN-Fact-Sheet-2017.pdf>.
7. *Id.*
8. 42 U.S.C. § 136.
9. This article focuses on the unique issues suffered by American Indian, Alaskan Indian, and Native women but by no means seeks to discount or discredit the trauma suffered by all genders and persons who face domestic and sexual violence.
10. Ohio Revised Code § 2930.
11. When speaking of rehabilitating victims of domestic and sexual violence, the authors do not argue that victims are at fault for their trauma in any way. Instead, authors recognize the long-lasting mental, emotional, and physical damage such experiences can cause, and acknowledge that healing can and should be aided by the government.
12. 18 U.S.C. § 1152. The Act removed tribal jurisdiction to prosecute the following crimes: assault, maiming, theft, receiving stolen property, murder, manslaughter and sexual offenses. *Id.*
13. For purposes of this note, "intra-tribe" refers to incidents between two American Indians. "Inter-tribe" refers to incidents involving one or more non-American Indians.
14. The enumerated crimes are defined by distinct federal statutes.
15. *Cherokee Nation v. Georgia*, 30 U.S. 1, 20 (1831).
16. *Id.* at 18.
17. *Id.* at 20.

18. 18 U.S.C. § 1553.
19. *Id.*
20. Joshua B. Gurney, An “SDVCJ Fix” – Paths Forward in Tribal Domestic Violence Jurisdiction, 70 Hastings L.J. 887, 12 (2019).
21. 18 U.S.C. § 1162. The mandatory states that assumed criminal jurisdiction, regardless of whether the crime occurred within Indian country, were Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin. *Id.*
22. Joshua B. Gurney, An “SDVCJ Fix” – Paths Forward in Tribal Domestic Violence Jurisdiction, 70 Hastings L.J. 887, 10 (2019).
23. *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978).
24. *Id.* at 200.
25. *Id.* at 206.
26. *Id.*
27. The Dep’t of Justice Nat’l Congress of American Indians, VAWA 2013’s Special Domestic Violence Criminal Jurisdiction Five-Year Report 4 (2018).
28. *Id.* at 3.
29. U.S. Government Accountability Office, U.S. Department of Justice Declinations of Indian Country Criminal Matters, GAO-11-167R (Dec. 13, 2010) [gao.gov, https://www.gao.gov/products/gao-11-167r](https://www.gao.gov/products/gao-11-167r).
30. *Id.*
31. *Id.*
32. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, National Crime Victimization Survey, 2015-2019 (2020); Federal Bureau of Investigation, National Incident-Based Reporting System, 2012-2016 (2017).
33. Joshua B. Gurney, An “SDVCJ Fix” – Paths Forward in Tribal Domestic Violence Jurisdiction, 70 Hastings L.J. 887, 12 (2019).
34. 25 U.S.C. § 1302 (2012).
35. U.S. Dep’t of Justice, Tribal Law and Order Act, <https://www.justice.gov/tribal/tribal-law-and-order-act> (explaining the reasoning behind the Tribal Law and Order Act).
36. 25 U.S.C. § 1302 (2012). Compare these numbers with the previous sentencing authority of a maximum of three years and a maximum fine of \$5,000. Indian Civil Rights Act, 25 U.S.C. § 1301.
37. TLOA covers crimes such as domestic violence, sexual assault, and drug trafficking and attempts to reduce the rates of substance abuse.
38. 25 U.S.C. § 1302. To subject the defendant to the maximum fine or sentence, TLOA requires an accused who (1) has been previously convicted of the same or comparable offense; or (2) is being prosecuted for an offense comparable to an offense that would be punishable by more than 1 year of imprisonment in the United States. *Id.*
39. *Id.*
40. *Id.*
41. Samuel D. Cardick, The Failure of the Tribal Law and Order Act of 2010 to End the Rape of American Indian Women, 31 St. Louis U. PUB. L. REV. 539, 574 (2012).
42. The Dep’t of Justice Nat’l Congress of American Indians, VAWA 2013’s Special Domestic Violence Criminal Jurisdiction Five-Year Report 4 (2018).
43. Samuel D. Cardick, The Failure of the Tribal Law and Order Act of 2010 to End the Rape of American Indian Women, 31 St. Louis U. PUB. L. REV. 539, 574 (2012).
44. Leila Abolfazli, Violence Against Women Act (VAWA) HeinOnline (2021), <https://heinonline.org/HOL/LandingPage?handle=hein.journals/grggen17&div=39&id=&page=>.
45. Violence Against Women Act, NNEDV, <https://nnedv.org/conwntent/violence-against-women-act/> (last visited Nov 10, 2021).
46. Needs of victim-survivors vary from person to person, but can be conceptualized in this context as affirmative rights and protective procedural processes.
47. Congressional research service & Lisa N. Sacco, The Violence Against Women Act (VAWA): Historical overview, funding, and Reauthorization (2019).
48. *Id.*
49. Committee on the Judiciary., The violence against women act of 1993: Report (to accompany S. 11, as amended) (1993).
50. S.Rept. 103-138 (1993).
51. 25 U.S.C. § 1304(b)(1).
52. *Id.*
53. SDVCJ was enacted to “specifically address[] the tribal exercise of Special Domestic Violence Criminal Jurisdiction over non-Indians to address the jurisdictional gap created by *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978)” Tribal Protection Order Resources: Special Domestic Violence Criminal Jurisdiction, <http://tribalprotectionorder.org/special-domestic-violence-criminal-jurisdiction/#:~:text=The%20purpose%20of%20Section%20904,protection%20orders%20and%20dating%20violence>.
54. *Id.*
55. The Dep’t of Justice Nat’l Congress of American Indians, VAWA 2013’s Special Domestic Violence Criminal Jurisdiction Five-Year Report (2018).
56. Judiciary; Financial Services; Ways and Means; Education and Labor; Energy and Commerce; Veterans’ Affairs; Natural Resources, Violence Against Women Act Reauthorization Act of 2021.
57. *Id.* at Sec. 902.
58. *Id.*
59. *Id.* at Sec. 207.
60. *Id.*
61. G. William Domhoff, Who rules America?: The triumph of the corporate rich (2014).
62. Howard Zinn, A people’s history of the United States: 1492-present (2015).
63. Harold R. Kerbo, Social stratification and inequality (2008).
64. About Marsy’s Law, Marsy’s Law for All, https://www.marsyslaw.us/about_marsys_law (last visited Nov 10, 2021).
65. *Id.*
66. What is the difference between Marsy’s Law and previous national crime victims’ acts?, Marsy’s Law for All, https://www.marsyslaw.us/what_is_the_difference_between_marsys_law_and_previous_national_crime_victims_acts (last visited Nov 10, 2021).
67. State efforts, Marsy’s Law for All, <https://www.marsyslaw.us/states> (last visited Nov 10, 2021).
68. What is Marsy’s Law?, Marsy’s Law for All, https://www.marsyslaw.us/what_is_marsys_law (last visited Nov 10, 2021); Marsy’s law for all, Ballotpedia, https://ballotpedia.org/Marsy%27s_Law_for_All (last visited Nov 10, 2021).
69. David Straughan, Marsy’s Law Aims to Protect Victims of Violent Crimes, But At What Cost? (March 26, 2021), <https://interrogatingjustice.org/ending-mass-incarceration/marsys-law-aims-to-protect-victims-of-violent-crimes-but-at-what-cost/>.
70. *Id.* See also Jeanne Hruska & Holly Welborn, [aclu.org In Major Threat to Due Process, Marsy’s Law Gains Ground Nationwide](https://www.aclu.org/blog/criminal-law-reform/major-threat-dueprocess-marsys-law-gains-ground-nationwide), (November 30, 2018), <https://www.aclu.org/blog/criminal-law-reform/major-threat-dueprocess-marsys-law-gains-ground-nationwide>.
71. Susan A. Bandes, What Are Victim-Impact Statements For? The Atlantic (July 23, 2016) <https://www.theatlantic.com/politics/archive/2016/07/what-are-victim-impact-statements-for/492443/>.
72. *Id.* citing Paternoster R. and Deise, J., A Heavy Thumb On The Scale: The Effect of Victim Impact Evidence on Capital Decision Making*. Criminology, 49: 129-161 (2011). <https://doi.org/10.1111/j.1745-9125.2010.00220.x>.
73. 25 U.S.C. § 1302 (2012).
74. 25 U.S.C. § 1302 (2012).
75. 25 U.S.C. § 1302 (2012).
76. <https://www.marsyslaw.us/>.
77. Ohio Constitution Art. 1 § 10a.
78. *Id.*
79. Ohio Revised Code § 2930 *et seq.*
80. *Id.*