

OCTOBER 2023

ADVOCATE

ad'·vo·kāt'

(verb): to support, assist others on a cause or issue of concern; to act as an advocate for others.



A NOTE FROM OUR MLKY STATE DIRECTOR

Friends,

As some of you know, I was on maternity leave for much of the summer. It was an amazing and wonderful time. My husband, son and I welcomed a new baby boy in May, and we are adjusting well to being a family of four. Thank you to everyone who shared kind words of encouragement and congratulations. It is nice to be back from leave.

One of my favorite times since returning from leave was the opportunity to provide the Crime Survivor Star Activity Training. With that, I also had the opportunity to share our Silhouette Project: United We Stand, Silenced We Fall. We look forward to offering both these resources more during the coming months. These are free resources and I encourage you to reach out if you feel they could be useful to your organization.

As always, we want to thank you all for your tireless advocacy efforts across the state as you continue to support victims and their families throughout 2023.

In Gratitude,
Emily

SUPREME COURT: MARSY'S LAW DIDN'T VIOLATE DEFENDANT'S RIGHTS AT TRIAL

The Kentucky Supreme Court got it right. They upheld the unmistakably clear language of Marsy's Law giving a victim "the right to be present at trial and all other proceedings, other than grand jury proceedings, on the same basis as the accused."

The decision highlights that victims' rights are present and must be considered in the Kentucky criminal justice system. ([Read More](#))

MARSY'S LAW IN ACTION

Marsy's Law for Kentucky has had several wonderful opportunities to be part of events across the state including the Kentucky Victims Assistance Academy (KVAA), the Kentucky Prosecutors Conference, and the Kentucky Sexual Assault Kit Initiatives Law Enforcement trainings in Madisonville and Richmond. During these events, MLKY had the opportunity to share our Silhouette Project: United We Stand, Silenced We Fall. This awareness-raising campaign features a collection of life-size silhouettes that serve as reminders that victims often walk among us unseen and unheard. Each silhouette features a message and a QR code directing readers to information and resources about victims' rights. We would love to share the Silhouette Project with the community. If you have an upcoming meeting or event where you'd like to feature the Silhouette Project, reach out to ebonistall@marsyslaw.us.



KENTUCKY VICTIMS ASSISTANCE ACADEMY (KVAA)

During the KVAA event, Dr. Emily Bonistall Postel and Dorislee Gilbert, Jefferson County Attorney's Office Chief, Special Victims Unit, shared a presentation entitled, "History of the Crime Victims' Rights Movements & Crime Victims' Rights in Kentucky." The presentation discussed how victims' rights have changed over the years, highlighting that as the public prosecution system became the norm, the victims' roles were gradually reduced until they had no formal legal status beyond that of a witness or a piece of evidence. Over the years, grassroots organizations and Presidential Task Forces were created to offer victims a more prominent role in the justice system. These early initiatives laid the groundwork for re-evaluating victims' rights and the needs of victims across the nation ... and, ultimately, the role of Marsy's Law.

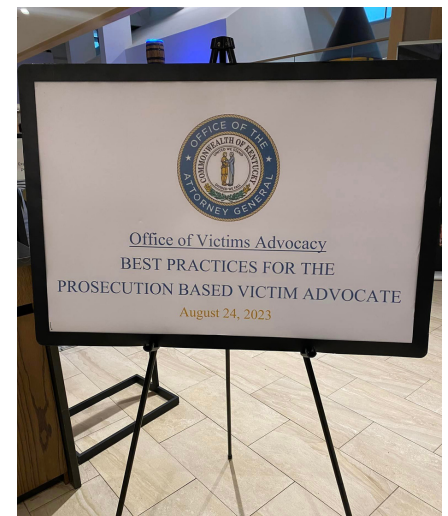
Following the presentation, Emily and Dorislee led attendees in a hands-on demonstration using the Crime Survivor Star Activity Training. This training provides participants a look at the neurobiology of trauma and the shared experiences of victims and trauma. And, ultimately, it leads the group through empathy-building activities that can be used in situations to protect victims from further trauma.

MARSY'S LAW IN ACTION



KENTUCKY PROSECUTORS CONFERENCE: BEST PRACTICES FOR THE PROSECUTION BASED VICTIM ADVOCATE

Dr. Emily Bonistall Postel also had the opportunity to present during the Kentucky Prosecutors Conference alongside Alex Otte, MADD's Regional Executive Director. During "Survivors Speak: The Wrong, the Right, & Why Victim Advocacy Matters," Emily and Alex spoke of their personal experiences as victims-turned-advocates. They shared what went well, and what did not, during their journeys through the criminal justice system. And they discussed how those experiences played roles in their personal and professional lives today – as they strive to help give survivors a voice, and help survivors understand the processes and timelines of the criminal justice system.,



WHY WE DO WHAT WE DO



On August 30, Dr. Emily Bonistall Postel joined Marsy's Law for All during the Facebook Series, "Why We Do What We Do." During the event, Emily discussed MLKY's ongoing work to share the voices of crime victims and the important role victim advocates have in reducing trauma for victims during their interactions within the justice system. Emily noted "one of the best ways to be trauma informed is to be kind."

"One example we give prosecutors is about the way trauma manifests in victim behavior. After someone experiences a crime they lose all sense of control. It's important to set and manage clear expectations to give victims back a feeling of control."

To watch past episodes of "Why We Do What We Do," click [here](#).

SUPREME COURT: MARSY'S LAW DIDN'T VIOLATE DEFENDANT'S RIGHTS AT TRIAL

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In 2021 Michael Robertson was convicted of two counts of rape in the 1st degree of a minor under 12. He was sentenced to 20 years in prison. Robertson appealed citing several errors, with the central argument being the court's misapplication of Marsy's Law in allowing the victim's father to remain in the courtroom prior to his testimony. The basis of Robertson's reasoning lies in Kentucky Rule of Evidence (KRE) 615, a state rule whose purpose is to separate trial witnesses to preserve the integrity of individual testimony and prevent a witness from altering their testimony to conform to what they may hear at trial. The court pointed out there is no constitutional right to separate witnesses, only to a fair trial; and that a victim's constitutional right to be present trumped a defendant's state right to have witnesses separated at trial. The defendant was unable to show any prejudice or harm by the victim's father's presence in the courtroom. Robertson was afforded the opportunity to cross examine the witness to explore any effect the witness' presence may have had on his testimony or to challenge any prior inconsistent statement. Ultimately, the court determined that Robertson was given a fair trial.

The Court's published decision sets forth guidance for future cases. Parties must bring to the court's attention potential conflicts between the right to be present pursuant to Marsy's Law and KRE 615 and leaves to trial courts the consideration and discretion on how to best ensure a fair trial. The August 2023 decision can be read [here](#).

To read news coverage, click [here](#).

LEGISLATIVE COMMITTEE ADDRESSES VINE NOTIFICATION SHORTCOMINGS

The Kentucky legislature's Interim Joint Committee on Judiciary met on September 21 to discuss The Victim Information and Notification Everyday (VINE), a system intended to provide free and automatic notices to victims about their offenders' custody status and court dates through email, text, and phone calls.

According to Henderson County Attorney Steve Gold, victims have been unable to receive notifications since 2021.

"It's something we definitely ought to fix. It's requiring too much effort on the part of crime victims to get something that we're responsible for giving to them," said Senator Whitney Westerfield. "Crime victims ought to be able to benefit from a system that functions and functions well."

Marsy's Law states crime victims have the constitutional right to timely notifications about all court proceedings, as well as the release or escape of accused offenders.

To view the committee meeting, click [here](#).

(minute 1:45:36)

To read the news article, click [here](#).



DOMESTIC VIOLENCE AWARENESS MONTH

We want to help support your activities and events throughout the month of October. If you have an event you'd like us to share on our social media channels, or if you'd like to have the Silhouette Project onsite at an upcoming event, contact ebonistall@marsyslaw.us.



Marsy's Story

Marsy Nicholas was a beautiful, vibrant University of California Santa Barbara student who was stalked and killed by her ex-boyfriend. Only one week after her death, Marsy's mother walked into a grocery store where she was confronted by the accused murderer. The family, who had just come from a visit to Marsy's grave, was unaware that the accused had been released on bail. In an effort to honor his sister, Dr. Henry T. Nicholas III has made it his life's mission to give victims and their families enforceable, constitutional protections and equal rights.