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ACLU of Montana Brings Lawsuit to Challenge CI-116 as Unconstitutional

FOR IMMEDIATE RELEASE

Helena, Mont. — The American Civil Liberties Union of Montana filed a lawsuit today before the Montana Supreme Court challenging the constitutionality of CI-116. CI-116, known as “Marsy’s Law,” amends at least eight sections of the Montana Constitution and will inundate Montana’s already overburdened criminal justice system with unintended consequences.

Caitlin Borgmann, Executive Director of the ACLU of Montana said, “Montana’s legal system is charged to uphold the rights to a fair trial, due process, effective counsel, our right to know and the presumption of innocence. The ACLU fully supports the rigorous enforcement of existing legal protections for victims, but CI-116’s expansive redefinition of ‘victim’ gives new rights to family, friends, corporations and other non-human entities at the expense of constitutionally enshrined rights.”

The new requirements have already caused unbudgeted fiscal impacts as local governments attempt to respond to CI-116’s undefined staffing, compliance and procedural requirements.

Lewis and Clark County Attorney Leo Gallagher, a petitioner in the lawsuit, said, “My responsibility is to all the people of Montana and its Constitution. Unfortunately, I’m not certain that Montana voters understood that CI-116 amends multiple sections in our declaration of rights. CI-116 will force me to make the impossible choice between seeking justice for all Montanans and enforcing long-standing constitutional protections or serving the narrow, competing interests of Marsy’s Law’s newly expanded pool of victims harmed or allegedly harmed by even the most petty of offenders. Moreover, the county must now secure around \$95,000 from taxpayers by raising taxes or decreasing services, including the potential to diminish existing services to victims of serious, violent criminals.”

In 2016, CI-116 was bankrolled with [\\$2.4 million](#) from a California millionaire who is leading a campaign to insert a “victim’s bill of rights” into states’ constitutions across the country.

Adrian Miller, a petitioner in the suit and a victims’ rights advocate said, “CI-116 was promoted to voters as necessary to protect a victim’s rights. This is not accurate, particularly in domestic abuse and sexual assault cases. Contrary to the right of privacy that the Montana Constitution formerly guaranteed individual victims, the initiative defines family members as ‘victims’ with a group right to be fully informed and involved in every decision. CI-116 ultimately makes victims less empowered and less safe.”

Miller continued, “Sometimes a victim wants privacy from her family, for example when a rape victim is deciding whether to obtain an abortion, or when family members pressure an abused spouse to drop charges and return home. Marsy’s Law robs victims of the decision whether and when to involve their families, and instead gives that power to the state.”

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The petition seeks a declaration from the Montana Supreme Court that CI-116 amends multiple sections of the Montana Constitution and therefore requires a separate vote for each amendment. If the court agrees with petitioners that CI-116 was improperly enacted, it could void the law in its entirety and prohibit its application.

Petitioners include the Montana Association of Counties, Montana Association of Criminal Defense Lawyers, ACLU of Montana, Leo Gallagher and Adrian Miller. They are represented by Kyle Gray and Brianne McClafferty with Holland and Hart, LLP, James Molloy with Gallick, Bremer and Molloy, P.C., and Alex Rate, Legal Director of the ACLU of Montana.

Caitlin Borgmann, Executive Director of the ACLU of Montana, and Alex Rate, Legal Director, are available for interview via phone and in-person in Helena (Caitlin) and Bozeman/Livingston (Alex).

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