Marsy’s Law: Praises appeals court decision upholding victims’ rights to be heard

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MADISON – Today the Wisconsin District IV Court of Appeals issued an opinion upholding the right of crime victims to be heard during legal proceedings when their rights are implicated. The opinion reverses a previous lower court decision regarding what are commonly referred to as Shiffra-Green motions, which involve releasing the personal health records of a victim during a trial and are most often invoked in sexual assault cases.

Writing for the unanimous appellate court, Judge Michael R. Fitzpatrick concludes that the 2020 crime victims’ constitutional amendment, commonly known as Marsy’s Law for Wisconsin, grants crime victims standing to oppose, and to make arguments supporting their opposition to, a defendant’s Shiffra-Green motion. The court further ruled that the rights in the new Marsy’s Law amendment are available to all crime victims even if the case began before the amendment took effect in May of this year.

“Today’s decision is a huge win for Wisconsin crime victims,” said Marsy’s Law for Wisconsin Outreach Director Nela Kalpic. “Because of the constitutional rights afforded to all crime victims under Marsy’s Law for Wisconsin, victims now have the ability to have their voice heard on whether their private medical and mental health records should be admissible in court. The judge still gets to decide, but at least the victim can now have her voice heard.”

Fitzgerald writes that granting the victim standing to oppose, and make arguments to the circuit court in the criminal case supporting their opposition does not impair the rights of the defendant because the victim’s input to the circuit court on the

merits of the motion “does not implicate hallmarks of substantive criminal law.”