

*The Civil Law
in New Jersey*

Legal Services of New Jersey



The New Jersey Legal Services Programs

State Coordinating Program

Legal Services of New Jersey

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Victims of Sexual Offenses

The Civil Law in New Jersey

Written and published by

Legal Services of New Jersey





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Preface

Since 1966, Legal Services of New Jersey (LSNJ) has coordinated the statewide Legal Services system in New Jersey, providing free legal assistance to low-income people in civil matters. Part of Legal Services' mission is to educate people about their legal rights. Knowledge enables people to resolve some problems on their own, without the need for lawyers.

Informed people are also able to make better use of a lawyer when they have one.

Important Notes About Using This Handbook

This handbook does not give advice about a particular legal problem that you may have, and it is not a substitute for seeing a lawyer when you need one. Always talk to a lawyer if you can before taking legal action.

The information in this handbook is accurate as of March 2026, but laws often change. Please check our website, www.lsnjlaw.org, for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

Getting Legal Help

You can also contact Legal Services of New Jersey's statewide, toll-free legal hotline, LSNJLAWSM, at 1-888-LSNJ-LAW (1-888-576-5529). Hotline hours are Monday through Friday, 8 a.m. to 5:30 p.m. You may also apply online at **www.lsnjlawhotline.org**. The hotline provides information, advice, and referrals in civil legal matters to eligible low-income New Jersey residents. This service is provided at no charge to callers who are financially eligible. If you do not qualify for Legal Services, the hotline will refer you to other possible resources.

Comments and Suggestions

We hope that this handbook will be helpful to you. Please let us know if you have comments or suggestions that we might use in future editions. You can write to us or email us at:

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Introduction

Sexual assault is traumatic, and there is no correct way to feel while you process this trauma. Confusion, shame, depression, guilt, and fear are all valid responses. Despite these feelings, it is important for victims to know they are never to blame for the wrongful acts of others.

The law in New Jersey recognizes that sexual offenses are not caused by what the victim was wearing or whether the victim was drunk or high. The victim is not responsible for the offense because they did not physically resist, alert others, or run away.

This handbook provides information about resources and remedies available to victims of sexual offenses in New Jersey.

We refer to the person who experienced the sexual offense as a “victim” because it is the term most often used in New Jersey statutes. It is the nature of being victimized (suffering injury or harm) that makes individuals eligible to secure rights in civil court. We recognize the personal strength and resilience that makes you a survivor.

What is a sexual offense?

In this handbook, we use “sexual offenses” to refer to a range of offenses that have different definitions in different contexts. Often, legal definitions will differ from how people commonly use terms to describe their experiences such as rape, sexual assault, or sexual harassment.

Sexual contact (also criminal sexual contact) occurs when the abuser touches the victim or abuser’s intimate parts. Touching could be either directly or through clothing. The purpose of

the touching must be to degrade or humiliate the victim or for the sexual excitement of the abuser.

Sexual penetration (also sexual assault) is vaginal or anal intercourse, oral sex, or insertion into the anus or vagina of the abuser's hand, finger, or an object. This also includes penetration done at the abuser's instruction.

Definitions of legal terms are also included within the section where that definition is applicable.

Getting Help

Time is of the essence. While it is important to take care of yourself, if you believe you might want to have evidence collected to pursue legal action in the future, it is important to get a forensic medical exam as soon as possible. Evidence degrades quickly, so the window to collect forensic evidence is short.

It can be difficult to decide what you want to do in the immediate aftermath of a sexual offense. Discussing your options with a Confidential Sexual Violence Advocate can help. See section on **Confidential Sexual Violence Advocates**.

In New Jersey, victims have the option to collect evidence through a forensic medical exam, but not have it immediately reported to law enforcement. If a victim does not consent to report to law enforcement, the evidence will be stored for up to 20 years. To preserve evidence, before seeking medical attention, the victim should not shower, bathe, wash, douche, change clothes, eat, drink, smoke, or urinate. They should not throw away the clothes they were wearing or any other item involved in the sexual offense. See **Gathering Medical Evidence**.

Counseling and Self-Care

Engaging in self-care is simply using healthy techniques that keep your mind and body healthy and resilient. Self-care can

be as simple as drinking more water, implementing better sleep habits, or taking a walk. Find strategies that work for you.

Choosing to access counseling is also a form of self-care. Many sexual assault organizations provide direct services or referrals to counseling. Counseling can be peer-to-peer support, support groups, short- or long-term individual or group counseling. Counseling is a safe space to discuss your feelings and problems, where you won't be judged and your information won't be shared. If a specific counselor or counseling setting does not work for you, it is okay to seek counseling that is a better fit.

Before making a change, it may be helpful to write down your concerns and expectations for counseling and express them to the counselor. Advocating for yourself can be empowering. If you decide to find another counselor or method, be prepared to retell your story.

Confidential Sexual Violence Advocates

Sexual violence programs are located in each county in New Jersey and provide a range of services. Confidential Sexual Violence Advocates (CSVA) are specially trained to understand the impact of sexual offenses. Their services are confidential, and they can help even if a victim does not feel comfortable reporting to law enforcement. CSVAs can be a helpful first step in deciding what to do after a sexual assault. They can explain how the reporting process works, the options that may be available, and answer important questions about victim rights and privacy. Each organization provides a 24-hour crisis hotline, counseling or support groups, and accompaniment to forensic exams, police interviews, and court proceedings. Some counties have culturally-specific organizations that serve particular communities.

To find a sexual violence agency in your community, visit the website for, ***NJ coalition against sexual assault.***

Seeking Medical Attention

While it may be difficult to seek medical attention, it is recommended to do so as soon as possible after a sexual offense has occurred—preferably at an emergency room and especially if someone has experienced choking or strangulation as part of the assault. There could be severe injuries even if they are not visible. Seeking medical attention quickly is the most effective way to prevent pregnancy or sexually transmitted infections. Seeking medical attention can also help support a future civil or criminal legal matter.

To get the best treatment, it is important to provide the doctor with a detailed description of what happened and be as specific as possible about the sexual offense (what body parts were involved and how they were involved). The description should include any physical contact by the offender. People who experience traumatic events often have difficulty remembering certain parts of the incident. It is okay to tell medical staff if that is the case. Talking about what happened may be difficult, but you can take your time when telling your story. After being evaluated at the emergency room, one should follow up with their own doctor as soon as possible. Pregnant people should follow up with their obstetrician.

A friend or family member can come to the hospital for emotional support. They may not be allowed into the exam room, but their support could be helpful. Also, there are organizations that can provide support listed in the resource section of this handbook.

During the medical visit, ask questions to know what to expect. Ask about follow-up treatment, sexually transmitted infections, and pregnancy. Also ask the treating physician or staff if they recommend other services or community resources.

Even with health insurance, there may be costs associated with medical treatment and therapeutic services. This should not deter anyone from seeking the medical attention they need. See Financial Assistance from NJ's Victims of Crime Compensation Office (VCCO), which provides money to victims of crime. If needed, ask the treating medical facility if there are programs to help with medical bills. There is no cost for a medical Sexual Assault Forensic Examination (SAFE) kit or a Drug Facilitated Sexual Assault (DFSA)/Toxicology kit. Your local county sexual assault organization may have other services available to victims at no cost.

Gathering Medical Evidence

Each county has at least one hospital that works in coordination with a team called the Sexual Assault Response Team (SART). The SART team consists of:

- A Forensic Nurse Examiner (FNE), specially trained in assisting victims of sexual offenses and strangulation
- A specially trained law enforcement officer; and
- A confidential sexual violence advocate (CSVA)

SART members can meet a victim at the hospital for the purposes of completing the forensic exam and providing additional resources and information.

Medical evidence is gathered during a Sexual Assault Forensic Examination (SAFE). The SAFE should be completed as soon as possible after an assault and will be conducted by an FNE if it is within seven days of the offense. After seven days, there may no longer be any medical evidence to collect, but a person could still discuss their options with a Confidential Sexual Violence Advocate.

SAFEs can be done at any time of the day or night by calling 911 or by going to the local sexual violence center or a hospital emergency room. It can be helpful to contact a sexual

violence advocacy center first for recommendations on which hospital to visit to minimize wait times at the hospital.

When a person age 13 or over goes to a participating hospital emergency room within seven days of experiencing a sexual offense, the hospital can activate one or all members of the SART. A person should be given the option of which SART members they would like present at the hospital—and they may choose to get a forensic medical exam without speaking to law enforcement or making a police report until a later time.

Children under 13 may be directed to a child abuse center for forensic exams and interviews, instead of engaging a SART. Children, or parents or guardians on their behalf, will not be able to seek a VASPA protective order against someone who qualifies as a parent or guardian (including teachers).

The forensic exam will usually include an interview and a physical exam. There may be the option to have a law enforcement officer present during the interview so that information does not need to be repeated. If the law enforcement officer is wearing a body camera, the victim can ask if it will remain on or be turned off. The physical exam may include photographs of sensitive areas. The victim can tell the nurse whether they are comfortable with pictures being taken. Exams may differ in the types of physical evidence that are collected. The physical exam may include: a comb-through of body hair; a pelvic exam; swabs of the mouth, pelvic area, or other areas of the body; photographs of sensitive areas; and collection of blood and urine samples. The exam will usually include a medical screening to assess injuries and to provide medication to prevent pregnancy or sexually transmitted infections.

Collecting as much evidence as possible is important for a court case, but the nurse will not take steps without your consent. The nurse can pause during the exam to answer questions or allow consultation with the confidential advocate. A victim

may also have a support person, such as a friend or family member, in the exam room with them during the exam.

If a report is made to law enforcement at the time of the forensic exam, they will proceed with analyzing the evidence. If a report is not made to law enforcement, the evidence kit will be held anonymously for up to 20 years. There will be a number assigned to the evidence that can be used to check on the testing progress and results. Victims can also ask for copies or pictures of anything that was collected for their own records.

Most crimes have time limits as to when law enforcement can initiate a criminal case. Some sexual offenses, such as invasion of privacy or cyber-harassment, may have a time limit, but sexual assault does not. You can report a crime to the police at any time.

Sexual Offenses and New Jersey's Legal System

Sexual offense cases may be brought in civil, criminal, or municipal court. This handbook will focus on protections and other benefits available to victims of sexual offenses under New Jersey's civil law as well as general information regarding criminal law.

The New Jersey Sexual Assault Victim's Bill of Rights says people who have experienced sexual assault have the right to:

- Choose whether to report to law enforcement
- Be free from any suggestion that they must report the crime to have their rights guaranteed
- Be free from any suggestion that they should refrain from reporting crimes to avoid unwanted personal publicity
- Have their report of sexual assault treated seriously

As a victim of sexual assault, you have the right to be informed of and access:

- Existing medical, counseling, mental health, or other services—whether or not the crime is reported to law enforcement
- Treatment and interviews provided in a language in which you are fluent
- Assistive devices to accommodate any disabilities you may have
- Testing for HIV or any other sexually transmitted infections; and
- Help compelling and disclosing communicable disease test results from the person who caused harm

The Criminal Law System

The criminal law system handles cases that involve violations of criminal law, such as lewdness, criminal sexual contact, sexual assault, cyber-harassment, and stalking. Criminal cases may be prosecuted at the county courthouse in the superior court—criminal part, or at a local municipal courthouse. Since the State has a duty to protect its citizens, all violations of state criminal laws are considered public wrongs and crimes against the State. A prosecutor represents the State by prosecuting those accused of committing crimes. The victim is a witness for the prosecutor's case. The prosecutor must prove their case "beyond a reasonable doubt."

A person accused of a crime is called the defendant. The defendant can hire a lawyer to represent them in court. A defendant in a criminal case who cannot afford a lawyer may be able to have one appointed by the public defender's office. Actions committed by a minor that would otherwise be a crime are called "juvenile delinquency" or "juvenile justice" cases.

A victim who is involved in a criminal case can ask the prosecutor to request that a "no contact" order be entered. If the charge is for a sexual offense, the victim can ask that a restraining order under Nicole's Law be entered. For a stalking conviction, a stalking restraining order will be entered. The victim should discuss with the prosecutor which of these options are best for them.

A victim can file both a criminal and a civil complaint against the defendant. However, they are two separate cases and processes.

The Civil Law System

In New Jersey, the civil statute (law) that talks about domestic violence restraining orders is the Prevention of Domestic Violence Act (PDVA). The civil statute (law) that talks about protective orders is the Victim's Assistance and Survivor Protection

Act (VASPA). Both types of orders apply in cases where there has been a sexual offense, and both types of orders are intended to restrain an offender from committing the same act again or other bad acts, but determining which type of order applies in a particular case depends on the victim's relationship to the abuser. If the victim and the abuser have had a domestic-type relationship (explained further in the next section), then they can seek a domestic violence restraining order. If they do not have the type of relationship that qualifies for a restraining order, then they can seek a protective order.

Domestic violence restraining orders and VASPA protective orders are civil cases that are heard in family court. When a victim (plaintiff) files a restraining or protective order, they are asking a judge to give them protection from the person who committed the sexual offense (sometimes called the defendant, offender, abuser, or perpetrator). The civil court cannot put the abuser (defendant) in jail for committing a crime. Both parties may hire lawyers; but, in civil court, the judge cannot appoint an attorney for either party.

The protections available in civil court do not require that a criminal case also be filed. A victim can request a restraining or protective order in civil court regardless of whether they choose to seek a criminal conviction. Likewise, they can file for protections in civil court even if there was a criminal case and the defendant was not convicted.

No prosecutor is involved in a civil case. The victim-plaintiff is responsible for proving the case, but the standard of proof is lower in a civil case than in a criminal case. In a criminal case, the prosecutor must prove "beyond a reasonable doubt" that criminal acts occurred. In a civil case, the plaintiff has to prove that it is more likely than not that the acts described in the civil law occurred. This is called "preponderance of the evidence."

Should I get legal advice about obtaining court-ordered protection?

If you are thinking about seeking protection from the courts, it is recommended that you talk to a lawyer. Since time with a lawyer is expensive, prepare for the session in advance by thinking through everything you want to know, writing down your questions, and bringing any evidence you have prepared. Some sexual violence service providers have legal advocates or volunteer lawyers who conduct legal clinics where you may get legal advice. The legal advocates are not lawyers, but they are specially trained. These advocates can help you prepare to talk to a lawyer and focus your questions. This will help you save time and money. Never take legal advice from someone who is not a licensed attorney. Well-intended friends, relatives, and artificial intelligence (AI) may offer opinions, but they are often not sufficiently informed about the status of the law. Only take legal advice from a lawyer.

In addition to writing down the questions you will be asking a lawyer, gather all the information that may be useful to the lawyer. For example, you may want to bring previous court orders and other important documents or evidence about your case, such as police reports; photographs of injuries or property damage arising from the sexual offense; communications with the offender; or copies of your bills for medical care.

When you meet with a lawyer about your case, everything you say is confidential. There is no cost to file a temporary protective or restraining order, but lawyers' fees vary. The lawyer will probably require payment in advance. Don't be shy about discussing fees. If you cannot afford the fee, be honest. Shop around and find a lawyer you can afford. The New Jersey State Bar Association publishes a free directory, listing lawyers who handle issues related to domestic or sexual violence. To obtain a copy, call the **New Jersey State Bar Association** at

732-249-5000. You may also want to contact your county bar association's lawyer referral service.

If you need advice from a lawyer but cannot afford one, you may be eligible for free legal advice or representation from Legal Services. The addresses and telephone numbers of New Jersey's Legal Services programs are listed on the inside front cover of this handbook. You may also contact Legal Services of New Jersey's statewide, toll-free legal hotline, LSNJLAWSM online at **www.lsnjlawhotline.org**, or by phone at 1-888-LSNJ-LAW (1-888-576-5529). The hotline provides information, advice, and referrals in civil legal matters to eligible low-income residents of New Jersey. You may also qualify for representation by LSNJ's Domestic Violence Representation Project, Immigration Representation Project, or PROTECT, for victims of trafficking. The hotline can refer you to these programs.

If you go to court by yourself, read this handbook carefully. Take notes on what you read and make notes about your situation. (There are pages for notes at the end of this handbook.) Review your notes before you go to court. If you are prepared, you will be more at ease. Be prepared to give the judge a detailed account of the violence that has occurred and if any other contact has occurred before or after that incident. Organize your evidence, such as photographs, medical reports, and police reports. Prepare a list of your expenses, if you are going to ask for support or reimbursement.

LSNJ has many resources to help you file a restraining or protective order and prepare for a hearing. Below are a few to help you get started:

- **Restraining Orders LSNJ Legal Rights Video Series**
 - English - **video**
 - Spanish - **video**
- **How to Get a Restraining Order (article)**

English - **article**

Spanish - **article**

- **Domestic Violence: A Guide to the Legal Rights of Domestic Violence Victims in New Jersey (manual)**

English - **manual**

Spanish - **manual**

- **Protective Orders – Understanding the New Jersey Victims Assistance and Survivor Protection Act VASPA Series video - VASPA video**
- **Victim's Assistance and Survivor Protection Act (VASPA) -Protection for Victims (article)**

English - **VASPA article**

Spanish - **VASPA article**

Domestic Violence Restraining Orders

A restraining order is a court order that forbids an abuser from having any contact with a victim. Contact includes:

- In-person
- Written
- Electronic
- Telephonic, or
- Harassing contact through third parties (friends, family, co-workers)

In addition to not contacting the victim, the court can order that the offender cannot contact other impacted third parties. It can also prohibit the offender from entering the victim's home, school, or place of work.

A restraining order prohibits the abuser from stalking (keep an eye on) or following the victim. The abuser may not threaten to stalk or follow the victim. The abuser may not harass the victim in person or online by contacting them through social media or other online methods. Additionally, the offender may not post online lewd, indecent, or obscene material about the victim, or threaten to commit a crime against them or their property.

Who can get a restraining order?

A domestic violence restraining order is available if all the following requirements are met:

1. You have one of the following types of relationships with the abuser:
 - You are currently or were previously dating the abuser.

- You share a child, or the abuser is a person with whom you are expecting a child (if you or the abuser is pregnant).
 - You are currently or were previously married to the abuser.
 - You are currently living with or have previously lived with the abuser. This may include family members, caretakers, roommates, or other adults with whom you live or have lived.
2. The abuser committed one of the 19 criminal acts listed in the statute (including lewdness, criminal sexual contact, sexual assault, cyber-harassment, and stalking).
 3. You are at risk of being subjected to further acts of abuse.

A victim can apply for a restraining order regardless of their immigration status, sexual orientation, or gender/gender identity. If a victim is seeking to file against a household member, they must be 18 years old.

Restraining orders can only be filed against abusers that are 18 or older or emancipated. If the abuser is under 18, the crime should be reported to law enforcement to be handled through the juvenile court process.

How do I get a restraining order?

Getting a restraining order is a two-step process. First, a temporary restraining order must be granted. Second, a hearing or trial is held, approximately 10 days later to determine if a final restraining order should be entered to provide the victim with permanent protection from abuse.

Temporary Restraining Order (TRO)

To apply for a restraining order, you can go to or call the superior court between 8:30 a.m. and 4:00 p.m., Monday through Friday. You can also file online at any time. The police

can assist you in applying for a restraining order through the municipal court outside of business hours. You can apply for a restraining order in the county where the offense occurred, where either you or the abuser lives, or where you are temporarily sheltered. At the family part of the superior court, an intake worker will provide you with the forms. At the municipal court, a police officer will assist you. Your location will be kept confidential. There is no filing fee or court fee to request a restraining order under the domestic violence law (PDVA).

You do not have to report the crime to the police, but you may do so. You will not be turned away by the court if you have not reported the crime to the police.

Once you have filed your complaint, a hearing officer or judge will review the complaint and listen to your sworn testimony describing the most recent incident, any resulting physical and emotional injuries, and why you need a restraining order. A hearing officer is not a judge, but they are specifically trained in the law.

Based on the sworn statements and any other evidence offered solely by the victim, a decision will be made to determine whether a temporary order will be issued. The defendant is not notified of the filing unless and until a TRO is ordered. The defendant does not have a chance to give sworn testimony or offer evidence before a TRO is entered. If one is entered, the police or sheriff's department will then serve (provide a copy of) the TRO to the defendant, so they are aware of its restrictions.

The court and law enforcement will give the defendant a copy of the TRO, which includes a hearing date, within 10 days, for a full hearing on the final restraining order.

Once a TRO is served, the defendant is restricted from contacting the victim, and continuing to do so is a violation of the TRO. (See section ***What should I do if the offender violates a restraining or protective order?***)

Final Restraining Order (FRO)

An FRO is a court order, issued after a hearing, where a judge finds the victim has proven there is a qualifying relationship, a domestic violence crime was committed, and that there is risk of future abuse. The hearing provides both the plaintiff and defendant with the chance to appear and present sworn testimony, witnesses, and other evidence to a judge. An FRO prohibits the defendant from having any type of contact with the plaintiff, and can provide other relief as well, including custody or possession of a shared residence. Under New Jersey law, FROs do not expire.

The victim or plaintiff will present their case by giving their own sworn testimony and introducing the testimony of witnesses. Bring any documents or photographs that support any part or description of the incident. Bring three copies of any documents or photographs to show to the court. If there are any witnesses to the violence, ask them to come to court as well. Witnesses can also include people who observed or heard things that support the victim's story of what led up to the incident or what happened immediately after the incident.

When going to court, they should bring:

- Witnesses
- Pictures of injuries
- Police reports
- Certified medical reports
- Audio and video files
- All other evidence that can help prove the case

These forms of evidence are not required, as testimony alone may be enough, but they can make the case stronger.

During the hearing, the defendant will have a chance to testify, offer witnesses, and present other evidence to undermine the plaintiff's case. The plaintiff or the plaintiff's attorney will be able to cross-examine (question) the defendant and the defen-

dant's witnesses. The defendant or the defendant's attorney will also be able to cross-examine the plaintiff and their witnesses.

The judge will decide whether an offense occurred and whether the plaintiff needs an FRO to protect them from future abuse or immediate danger.

VASPA Protective Orders

A protective order is a court order that forbids an abuser from having any contact with a victim. Contact includes:

- In-person
- Written
- Electronic
- Telephonic, or
- Harassing contact through third parties

In addition to not contacting the victim, the court can order that the offender not contact their family, household members, employer, coworkers, or the confidential sexual violence advocate they may be working with. It can also prohibit the offender from entering the victim's home, school, or place of work.

A protective order prohibits the abuser from stalking (keeping an eye on) or following the victim or threatening to stalk or follow the victim. The abuser may not harass the victim in person or online by contacting them through social media or other online methods. Additionally, the offender may not post online lewd, indecent, or obscene material about the victim, or threaten to commit a crime against them or their property.

The court must enter a final protective order if the sexual offense, stalking, or cyber-harassment is proven and it is likely that the order will protect the safety and well-being of a victim.

Who can get a protective order?

A VASPA protective order is available if the following requirements are met:

1. You do not have any of the types of relationships with the abuser that are required for a domestic violence restraining order (see previous section). Examples of relationships eligible for a VASPA protective order are acquaintances, neighbors, or coworkers.
2. The abuser committed a sexual offense, stalking, or cyber-harassment. A sexual offense is the completed offense or attempt at lewdness, sexual contact, or sexual penetration.
3. There is the possibility of future risk to the victim's safety or well-being.

Non-consensual sexual contact (also criminal sexual contact) occurs when the abuser touches the victim or abuser's intimate parts. Touching could be either directly or through clothing. The purpose of the touching must be to degrade or humiliate the victim or for the sexual excitement of the abuser.

Non-consensual sexual penetration (also sexual assault) is vaginal or anal intercourse, oral sex, or insertion into the anus or vagina of the abuser's hand, finger, or an object. This also includes penetration done at the abuser's instruction.

Lewdness occurs when the abuser exposes their genitals. Exposure must be for the purpose of sexual satisfaction of the abuser or another person.

A victim can apply for a protective order regardless of their immigration status, sexual orientation, or gender/gender identity.

Protective orders can only be filed against abusers that are 18 or older. If the abuser is under 18, the crime should be reported to law enforcement to be handled through the juvenile court process.

If a parent is filing a protective order on behalf of a minor child, they are not able to file against the other parent or a guardian of the child victim. These matters are to be handled

by the Division of Child Protection and Permanency and/or law enforcement.

Victims under the age of 18 must have their parent or guardian file the protective order on their behalf. Parents or guardians may also seek a protective order on behalf of a victim who has a developmental disability or mental disease which makes them incapable of understanding the nature of the alleged conduct or unable to give consent. Such a mental disease could be permanent or temporary.

What if the sexual offense happened years ago?

For victims of sexual offenses, protective orders are only available if the sexual offense occurred on or after May 7, 2016, even if there is still reason to fear an offender from an earlier incident. This limitation exists because VASPA did not exist before that date. For victims of stalking or cyber-harassment, the act must have happened after December 31, 2023.

How do I get a protective order?

Getting a protective order is a two-step process. First, a temporary protective order must be granted. Second, a hearing or trial is held, approximately 10 days later, to determine if a final protective order should be entered to provide the victim with permanent protection from abuse.

Temporary Protective Order (TPO)

To apply for a protective order, you must go to the superior court between 8:30 a.m. and 4:00 p.m., Monday through Friday or you may file online. If the court is closed, you will not be able to receive a protective order. You can go to the courthouse in the county where the offense occurred, where either you or the abuser lives, or where you are temporarily sheltered. At the family part of the superior court, an intake worker will provide you with the forms. Your location will be kept confidential.

There is no filing fee or court fee to request a protective order under the VASPA statute.

You do not have to report the crime to the police, but you may do so. You will not be turned away by the court if you did not report the crime to the police.

Once you have filed the initial paperwork, a hearing officer or judge will review the complaint and listen to your sworn testimony describing the most recent incident, any resulting physical and emotional injuries, and why you need a protective order. A hearing officer is not a judge, but is specially trained in the law.

Based on the sworn statements and evidence offered solely by the alleged victim, a decision will be made to determine whether a TPO will be issued. The defendant is not notified of the filing unless and until a TPO is ordered. The defendant does not have a chance to give sworn testimony or offer evidence before a TPO is entered. If one is entered, the police or sheriff's department will provide a copy of the TPO to the defendant (called "service" or "serving" the defendant), so they are aware of its restrictions.

The court and law enforcement will give the defendant a copy of the TPO, which includes a date, within 10 days, for a court hearing on the final protective order.

Once a TPO is served, the defendant is restricted from contacting the victim. Continuing to do so is a violation of the TPO. (See section ***What should I do if the offender violates a restraining or protective order?***)

Final Protective Order (FPO)

At the FPO hearing, the plaintiff will need to prove, by the preponderance of the evidence, that the defendant committed one of the five covered crimes (lewdness, sexual contact, sexual penetration, stalking, or cyber-harassment). The plaintiff must prove that the defendant did not reasonably believe that they had affirmative and freely-given consent to the sexual acts,

based on the plaintiff's words or behavior. A lack of physical resistance to the act does not prove consent.

The court must consider the possibility of future risk to the plaintiff's safety or well-being. The plaintiff should give testimony (and other evidence, if available) to show that they were physically or emotionally injured by the offense and that they fear for their safety or well-being because of the offense. They can also provide testimony about how being victimized by the defendant has impacted their emotional health and overall well-being.

The victim or plaintiff will present their case by giving their own sworn testimony and that of any witnesses who may testify. They should bring any documents or photographs that support any part or description of the incident. They should have three copies of any documents or photographs they want to show to the court. If there are any witnesses to the offense, the witnesses should go to court as well. Witnesses can also include people who observed or heard things that back up the plaintiff's story leading up to the incident or directly after the incident.

When going to court, they should bring:

- Witnesses
- Pictures of injuries
- Police reports
- Certified medical reports
- All other evidence that helps to prove the offense that is the basis of the complaint

These forms of evidence are not required, as testimony alone may be enough, but they can make the case stronger.

During the hearing, the defendant will have a chance to testify, offer witnesses, and present other evidence, to challenge the plaintiff's version of events. The plaintiff or their attorney will be able to cross-examine (question) the defendant and the defendant's witnesses. The defendant or the defendant's at-

torney will also be able to cross-examine the plaintiff and their witnesses.

The question of consent is a focus of cases based on sexual offenses. VASPA limits some kinds of evidence that defendants may try to use to prove consent. The court is not allowed to consider evidence about:

- The victim's prior sexual conduct, or
- How the alleged victim was dressed at the time of the incident

Also, the court cannot deny an FPO because the alleged victim:

- Did not report the incident to law enforcement
- Was intoxicated
- Did or did not leave the place where the incident happened
- Had no signs of physical injury

The statute recognizes that such facts about the plaintiff do not mean they consented to the offense.

The judge will decide whether an offense occurred and whether the plaintiff needs an FPO to protect their safety and well-being.

What should I do before court?

*B*eing prepared can make a big difference. Below is a list of things you should do before going to court.

Notify the Court If You Would Benefit From an Interpreter

The court will provide an interpreter, but you should let them know as soon as possible that you need one. You can request an interpreter by contacting the court in the county where the case will be heard. Family members or witnesses will not be able to provide interpretation in court.

Prepare Your Own Testimony

Testifying, or telling the judge your story in court, can be very stressful. It is a good idea to think about what your testimony will be before getting to court. The court will usually want to hear what happened in chronological order (1st, 2nd, 3rd), but putting traumatic memories in order in this way can be very difficult for sexual violence victims. You are not alone. Preparation beforehand can help. You might also find it helpful to write down your thoughts and memories, which will become your testimony. Think about the details: What happened before, during, and after the offense? If there were any prior offenses by the defendant, think about the details of those incidents as well. After you write this information, decide if there are any relevant witnesses or evidence you can present in court. Please note that you will not be able to read this paper in court, but you can use an outline to remember. After you decide what your testimony will be, compare it to the contents of your temporary order. If you would like to testify to incidents not included in the tempo-

rary order, you may amend the order. This means going to the county courthouse, preferably before the date of your hearing, to tell the staff at the family intake unit that you would like to add or change information in your order. You can also file an amendment online. A new order will be created and served on the defendant.

Gather Evidence

While preparing for the final hearing, you should gather your physical evidence. The goal of evidence is to support your version of events and help meet your burden, the preponderance of the evidence. This may include photos, broken items, torn clothing, medical records, or any type of texts (print these out) or electronic recordings. Take these with you on the day of your hearing.

The rules about evidence can be very complicated. Generally, the court will not admit into evidence what others said or wrote. There are a couple common exceptions, including:

- Statements made or written by the other party, for example, texts between the plaintiff and the defendant
- Statements made or written in the heat of the moment, when excited, or describing a scene currently occurring
- Statements made or written contemporaneously (close to the time of the incident), for example, entries written in a journal shortly after the event

Prepare Witnesses for the Hearing

Witnesses to the offense might include family members, coworkers, friends, neighbors, or police officers. It is best to talk to witnesses before the hearing to find out what they may have seen or heard that will help your case. Only listen to what the witness may have to say; do not try to match up versions of events. Witnesses must have personal knowledge, meaning they are testifying to something they saw or heard. They can

testify to something leading up to, during, or immediately after an offense. They will not be able to testify to what others who are not in court told them, but they can testify to information you or the defendant told them, especially if you sought their help or support right after an incident. For example, you may want a neighbor who has helped you during an emergency and can testify about your mood or behavior, or any injuries you suffered.

Think carefully before deciding to have children testify in court as it can be traumatic for them. Always tell the judge right away if you want to have a witness under the age of 18 testify. The judge will want to know who the parents of the child are and exactly what you think the child will testify about. The judge will decide if a child will testify.

Any witness in your case must come to court and testify in person because the court will only consider live testimony. The only way to legally order a witness to attend your hearing is to issue and deliver a subpoena to that witness. A subpoena is an order telling a person that they must attend the hearing and give testimony. It is a good idea to do this even if the witness is a friend or family member. The subpoena will show the witness's employer or school why they must miss work on a certain day. For more information on subpoenaing a witness, see the ***NJ Courts website***.

Arrange Childcare

Arrange childcare before attending court. Most courthouses do not provide childcare. Sometimes hearings will be very quick, especially if the other party does not attend. Other times, you and any witnesses might be waiting several hours before or after the hearing.

Dress for Court

Whenever you go to court, wear professional and modest clothing. This doesn't necessarily mean a suit. However, it is not advisable to wear clothing that is ripped, ill-fitting, bears offensive language, or is otherwise inappropriate for a business setting.

Make Arrangements to Meet Your Attorney

If an attorney is representing you, arrange a time and place to meet in court on the day of the hearing.

What happens in court?

You must show up at the date and time listed on your temporary order so the matter can be heard by a judge. The person who files the TRO/TPO is the plaintiff, and the person it is filed against is the defendant.

If you are unrepresented, or pro se, go to court and sit in the waiting area outside the courtroom where your matter will be heard. Some courts have separate waiting areas for plaintiffs and defendants. If there are not separate waiting areas, the plaintiff and defendant should take seats as far away from each other as is practical. If you feel threatened, tell the nearest sheriff's officer.

When the sheriff's officer for your courtroom comes out to ask who is present, let them know that you are there. If English is not your native language, ask for an interpreter. If you need an interpreter other than Spanish, it is a good idea to call the court to request one beforehand. The court must provide an interpreter when needed.

Once Your Case is Called

Both parties will be called into the courtroom by the sheriff's officer. The plaintiff will be seated at a table on one side of the courtroom and the defendant will be seated at another table. If either has an attorney present, the attorneys will be seated with them.

After being sworn in, the plaintiff, as the party bringing the lawsuit, will present their case first. They will be given the opportunity to testify (tell their side of the story) and then present any relevant evidence and other witnesses.

If the plaintiff has an attorney, the attorney will ask them questions, and the plaintiff will answer. If the plaintiff is unrepresented, the judge will allow them to present their testimony themselves. This is called direct examination.

While in court, it is important to act respectfully. It is not necessary to wear a suit, but dress should be modest. There will be designated times for each party to speak. It may be difficult to listen to the other party's version of events, but there should be no outbursts. The judge will monitor questions to make sure they are appropriate. If you do not feel comfortable answering a question asked of you, you may voice an objection to the judge who will ultimately decide if it must be answered. You cannot refuse to answer a question from the other party or their attorney without a reason. If the other party is questioning you directly, it is not a conversation and answers should be directed to the judge.

The Plaintiff's Obligation During Their Testimony

During a hearing, the plaintiff has to prove certain elements by what is called a preponderance of the evidence, meaning the plaintiff's version of events is more likely to have occurred than the defendant's version. Do not assume that the judge will make decisions based on what is written in the TRO/TPO application. The plaintiff must repeat all of the information to prove the elements during the hearing.

The judge will decide if the plaintiff proved their case by a preponderance of the evidence and if a final order is necessary.

Proving These Elements: General Tips on How to Testify

It is very important for your story to be consistent each time you share it. You should answer all questions honestly. A judge who thinks that you did not testify truthfully about even a minor fact may not believe the rest of your testimony. You must also

answer questions from the defendant, defendant's attorney, and the judge simply, honestly, and directly.

Non-Testimonial Evidence

The goal of evidence is to support your testimony and help meet your burden, the preponderance of the evidence. There are many different types of evidence that you could include in the presentation of your case, including photographs of injuries. You will need to authenticate any evidence that you present in court. This means you must testify that the evidence you are providing is an accurate representation of the facts. Tell the court what the evidence is, how you obtained it, and how it helps your case. Even if the police took photographs of your injuries, it is a good idea to take your own pictures and bring them to court. After you testify about receiving a particular injury, make the judge aware that you have pictures of your injuries. In court, the sheriff's officer will take those pictures from you and show them to the judge. It is important to tell the judge that the pictures you are providing are true and accurate representations of what you testified they are.

If you sought medical attention because of the offense, it is recommended that you get your medical records. Ask that the records be certified. They should have a cover sheet that tells the court that the records are true and accurate copies of your medical records. Certification is necessary for the court to consider the contents of your medical records. After you testify about seeking medical treatment, ask the court to review your medical records.

Additional types of evidence include text messages, voice-mails, video recordings, and phone records. With any evidence that you present, it is important to authenticate that evidence. This means you must testify that the evidence you are providing is an accurate representation of the facts. Tell the court what the evidence is, how you obtained it, and how it helps your case.

Many victims do not have evidence to present beyond their own testimony. The judge will make a credibility assessment based on what they heard both the plaintiff and defendant share in court. Evidence, besides testimony, is not required.

After You Finish Presenting Evidence

After you testify, the defendant or the defendant's attorney has the right to cross-examine (question) you. Cross-examination is a means of flushing out any inconsistencies in the opposing party's story. If any witnesses testify, they can also be cross-examined. After being cross-examined, the plaintiff will usually have the opportunity to explain inconsistencies raised during cross-examination. This is done through redirect examination when the plaintiff's attorney asks the plaintiff additional questions to clear up any seeming inconsistencies brought out by the defendant or their attorney. If you do not have a lawyer, you will have one final opportunity to talk about the offense.

Once the plaintiff has finished, the defendant will be given the same opportunity to testify and present witnesses and evidence. You or your attorney will have the opportunity to cross-examine the defendant and object to any testimony or evidence you believe is inappropriate.

After All of the Evidence Has Been Submitted

When both the plaintiff and the defendant have finished presenting their cases to the court, the judge will give the opinion. While the judge is giving their opinion, you are not allowed to speak or present additional evidence. The judge will inform you whether the temporary order will be dismissed or become final and provide reasons for the decision.

Dismissing a Final Order

A party seeking to dismiss a TRO, TPO, FRO, or FPO must make the request in family court. When a victim seeks to dis-

miss the order, the judge must make sure that the request is voluntary and no one has threatened or forced them to make the request. If a defendant seeks to dismiss the order, the court must determine whether there is good cause. In deciding whether good cause exists, the court will consider a number of factors, including: whether the victim consents; whether the victim fears the defendant; the nature of the current relationship between the parties; whether the defendant has been convicted of contempt for violating the order; whether the defendant abuses drugs or alcohol or has been violent with other people; whether the defendant has engaged in counseling; and whether the victim is acting in good faith when opposing the defendant's request.

How can an FPO or FRO help me?

FPOs and FROs will stay in effect permanently unless you or the defendant can persuade the court to change or dismiss the order. A final order provides continuing protection and forbids an offender from having any contact with a victim. Contact includes communication that is in-person, written, electronic, telephonic, or harassing communication through third parties.

In addition to not contacting the victim, the order may include that the offender cannot contact the victim's family, household members, employer, or coworkers. It also prohibits the offender from entering the victim's home, school, or job. A final order also prohibits an offender from committing any future offenses against the victim. Keep in mind that the law already prohibits people from committing the offenses included in restraining and protective orders.

TPOs/TROs and FPOs/FROs are valid everywhere in the country. Local or state police must enforce your order, even outside of the county or state where the order was issued.

What steps do I have to take after I receive a final order?

You will receive a copy of the final order immediately after your hearing. This order is the written document that explains the current legal status of your case. It is very important that you keep a copy of it with you at all times. Someone from the family court staff may also give you an extra copy to take to your local police department. It is important that you also do the following:

- Review the order before you leave the courthouse. If something is wrong or missing, ask the sheriff's officer to correct the order before you leave.
- Make several copies of the final order as soon as you can. Keep one copy with you at all times. Also, leave a copy of the order in your car, at work, at your child's school, and at your home in a safe place that is easy for you to get to in an emergency.
- Take a photo of the full order and keep it on your phone.
- Give a copy of the final order to any of your relatives or friends who are named and protected by the order.
- Give a copy of the final order to your local police.
- Think about whether there is anyone else who might help in an emergency, such a security guard in your apartment building or office building. Consider providing that person with a copy of the final order.
- Consider changing your locks or your telephone number.

It is important to give copies of your final order to all of these people in case the offender attempts to violate the order. You (or someone on your behalf) must be prepared to tell the police that you have a final order. The best way to do this is to show the police a copy of your order, though they are able to access the information electronically as well.

What should I do if the offender violates the restraining or protective order?

If the offender violates the no-contact portion of the court order (either the temporary or the final order), the offender may be found guilty of criminal contempt. Common examples of contempt of a restraining or protective order include an offender contacting the victim by calling, texting, sending social media messages, or harassing the victim by telephoning, threatening, following, or even physically harming the victim. In any of these cases, the offender should be charged with contempt. If the offender is doing any of these things to you, and you feel you need help from the police immediately, call them. If the responding police officer has reason to believe that a protective order has been violated, the officer must arrest the offender and immediately charge the offender with contempt.

The offender may also be charged with whatever crime was committed in violating the order. For example, if the offender violates the order by punching the victim, the offender should be charged with assault in addition to the contempt.

If the offender is violating the order but you don't feel you need to call the police for immediate help, you can still file a police report or criminal charge with the police at your earliest opportunity.

When an offender violates the no-contact part of an order, the county prosecutor's office will decide whether to proceed with criminal charges. This decision is made primarily by looking at the seriousness of the violation. In those cases where the offender has violated an order in a particularly serious

manner—for example, by committing a serious assault—the prosecutor is likely to bring the case before a grand jury to seek an indictment. If the offender is indicted, the case will proceed before a judge in the superior court, criminal division.

If the violation is determined to be less serious, the case will stay in municipal court. The contempt hearing will still take place before a family court judge. Remember, even though contempt cases may be heard in the family court, they are still criminal cases. Since the offender may be sentenced to jail, the offender has the right to be represented by an attorney.

In all criminal cases (including when an offender is arrested for violating a restraining order), a preliminary decision will be made regarding whether the defendant will be detained in jail prior to the hearing. A defendant may be released on the condition of no further contact with the victim. Before a defendant is released, an effort is supposed to be made to notify the victim that the offender is going to be released from jail. For this reason, you must keep the prosecutor's office and the family court notified of any change in your address or telephone number. This information will be kept confidential. A system called Victim Information and Notification Everyday (VINE) provides victims with information on the custody status of offenders. To be automatically notified, you must register with VINE.

It is important to try to maintain an active role in your case. Try to find out which prosecutor will be handling your case, and tell them about any witnesses or evidence that you think may be useful in the prosecution of the case.

Employment Protections

NJ SAFE Act

The New Jersey Security and Financial Empowerment Act (NJ SAFE Act) assists victims of sexually violent offenses (or domestic violence) by granting leave from work for up to 20 days in a 12-month period. This leave is available to the victims and their family members (child, parent, spouse, civil union partner, domestic partner, parent-in-law, sibling, grandparent, grandchild, any individual related by blood, or any other individual with a close association equivalent to a family relationship).

The law applies to employers with 25 or more employees. Employers may not require employees to use accrued paid leave before using leave under the NJ SAFE Act. Employees (victims or their family members) taking leave under the NJ SAFE Act may be eligible for family leave insurance benefits.

The NJ SAFE Act does not provide payment or require employers to pay eligible employees while taking leave under the NJ SAFE Act. It does prohibit eligible employers from firing someone for taking this leave. Specific notice to the employer that one is taking leave under NJ SAFE Act is required.

Under the NJ SAFE Act, leave may be taken for any of these activities in relation to an incident of domestic or sexual violence:

- Seeking medical attention or recovering from physical or psychological injuries caused by domestic or sexual violence
- Obtaining services from a victim services organization
- Obtaining psychological or counseling services
- Participating in safety planning, temporarily or permanently relocating, or taking other actions to increase

- economic security or safety from future domestic or sexual violence
- Seeking legal assistance or remedies to ensure health and safety including preparing or participating in any civil or criminal legal proceeding
- Attending, participating in, or preparing for a criminal or legal proceeding

Sexual Violence in the Workplace

Sexual Harassment Protections

When sexual violence occurs in a work setting, victims are at greater risk of leaving or losing their employment. There are two sources of protection against sexual harassment in the workplace: federal laws prohibiting employment discrimination based on sex (including pregnancy, and sexual orientation), and the New Jersey Law Against Discrimination.

Under federal law, sexual harassment constitutes a form of sex discrimination. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or making offensive remarks about a person's sex. If you have experienced such harassment at your workplace or by an employer, you can file a charge of discrimination through the Equal Employment Opportunity Commission (EEOC). Employers are prohibited from retaliating against you for filing EEOC charges. You must file a charge with the EEOC before you can file a discrimination lawsuit against your employer.

Under the New Jersey Law Against Discrimination, sexual harassment is a form of illegal discrimination based on gender. It can include verbal or physical harassment of a sexual nature, unwelcome sexual advances, requests for sexual favors, or offensive remarks about a person's gender or because of a person's gender. Sexual violence by a boss or someone with

authority over the victim is unlawful sexual harassment. Also, an employer permitting a work environment that is hostile about a person's gender, or against a specific person because of their gender, is also unlawful discrimination. This can include sexual harassment or sexual violence by coworkers or others who enter the workplace, if the employer is aware of the hostile environment and does not take reasonable steps to address the problem. Complaints alleging violations of the Law Against Discrimination can be brought in superior court or to the New Jersey Division on Civil Rights (DCR). The court or the DCR can order the offending employer to pay the victim for lost wages and other financial damages. The DCR can be reached through the **DCR website**.

Sexual Assault in the Military

If you experienced a sexual assault while serving in the military, or as a part of the military community, additional resources may be available. In addition to the civil legal rights discussed in this handbook and civilian criminal laws, in certain situations, sexual assault and related crimes can be punishable under the Uniform Code of Military Justice (UCMJ). For further information on sexual assault and the military, you can visit **Defense Logistics Agency (SAPR)** and **The Sexual Assault Prevention and Response Office**. For confidential help you can contact the Sexual Assault Prevention and Response (SAPR) at 1-800-841-0937 or DSN: 392-767-1133 or call the Safe Helpline at 877-995-5247 or visit the **Safe Helpline website**.

Workers' Compensation

When a sexual assault occurs in the workplace or while a person is performing the duties of a job, payment from the New Jersey workers' compensation system may be available. Workers' compensation is designed to help workers who are injured on the job. This can include injuries from sexual violence.

Unemployment Insurance

When a person leaves their job because of sexual violence in the workplace, they may be eligible for unemployment benefits. Typically when someone leaves their job without being fired or laid off, they are disqualified from unemployment benefits. There is an exception for those who leave for good cause connected to the work (such as when the working conditions are hazardous). Leaving a job due to sexual violence or harassment in the workplace may be considered a good cause, resulting in payment of unemployment benefits, if the person is otherwise eligible for such benefits. A person who leaves work due to circumstances connected to domestic violence will also generally be eligible for benefits, provided they are able to submit written documentation of the domestic violence (for example, a police report, medical records, statement from a domestic violence advocate, social worker, doctor, therapist, or clergy).

Assistance for Immigrant Victims of Sexual Violence

Immigrants who experience sexual violence may be able to obtain legal status, with a pathway to potential permanent residency (green card) in several ways. Legal status may be available through the U or T visas, VAWA, asylum, or Special Immigrant Juvenile Status.

U Visa

The U visa is one avenue to legal status for immigrants who have experienced sexual violence in the United States. A victim may be eligible for a U visa if they have been the victim of a crime, such as lewdness, criminal sexual contact, sexual assault, or domestic violence (including violation of a restraining order), and they helped, are helping, or will help with the investigation or prosecution of the crime. Note: The U visa is also available to victims of other qualifying crimes that cause substantial physical or mental harm. They may also be eligible for a U visa as the parent of a minor child who has experienced sexual violence (or other qualifying crime), or for a derivative U visa if you have an immediate family member who meets the eligibility requirements. If granted a U visa, the victim may be eligible to apply for a green card after three years.

T Visa

Immigrants who experience a severe form of human trafficking may secure immigration status through the T visa. Human trafficking occurs when individuals are tricked, forced, or threatened with serious harm or physical restraint to perform sexual services or other labor. A severe form of trafficking also occurs when a commercial sex act is induced by force, fraud,

or coercion, or in situations where the person forced to perform such an act is under 18 years of age. You may be eligible for a T visa if you are a victim of a severe form of trafficking, or in some cases, attempted trafficking may qualify if you are currently in the United States or at a port of entry because of trafficking, and would suffer extreme hardship if you had to leave the United States. Note: A victim aged 15 years or older who applies for a T visa may be required to contact a federal law enforcement agency and comply with any reasonable request for assistance in investigating or prosecuting trafficking (unless they are unable to do so due to physical or psychological trauma). You may be eligible for a derivative T visa if you have a family member who meets the eligibility requirements. If granted a T visa, you may be eligible to apply for a green card within three years or earlier, in some cases.

Asylum

If you fear returning to your home country because you have been, or will be, seriously harmed due to your race, religion, nationality, political opinion, or membership in a particular social group, you may be eligible for asylum. Harm due to membership in a particular social group may include violence based on gender or sexual orientation. The threat of harm must come from the government or someone the government cannot or will not control. With some exceptions, you must apply for asylum within one year of entering the United States. If granted asylum, you may be eligible to apply for a green card after one year.

Special Immigrant Juvenile Status (SIJS)

If you are unmarried, under 21, and have experienced sexual violence, domestic violence, or other abuse, abandonment, or neglect at the hands of one or both of your parents, you may be eligible for Special Immigrant Juvenile Status. The first step in the process is obtaining an order from a family court judge

finding that you cannot be reunified with your parent(s) and that it is not in your best interest to return to your home country. Once this order is granted, you may apply for Special Immigrant Juvenile Status. If approved, you may be eligible to apply for a green card.

VAWA

The Violence Against Women Act (VAWA) protects abused spouses, recently divorced spouses, children of U.S. citizens or lawful permanent residents, and abused parents of adult U.S. citizens. Through VAWA, it is possible to apply for immigration relief without the help or knowledge of the abusive family member. VAWA protections are available to men and women, and can be a pathway to legal permanent residency for those who are eligible.

Protections at School – Title IX

Protections at school for victims of sexual violence are similar to workplace protections. There are federal and state protections against sex discrimination in schools and educational programs. Title IX is a federal law that protects against gender discrimination at schools and educational programs. Under Title IX, sexual harassment and assault are considered a form of sex discrimination. Title IX applies to all educational programs that receive federal funding including private schools, K-12 schools, colleges and universities, and community-based educational programs.

For more information about Title IX and sex discrimination, visit the ***U.S. Department of Education website***.

Protections against discrimination and biased-based harassment also exist under the New Jersey Law Against Discrimination (NJLAD). Under the LAD, discrimination and harassment based on sex, sexual orientation, and gender identity or expression (among other protected classes) is prohibited in all public places including schools. Sexual harassment is considered a form of gender-based discrimination.

For more information about NJLAD protections or to report bias, visit the ***NJLAD website***.

College

Title IX is a federal law that requires colleges and universities to assist in protecting their students from discrimination. Title IX imposes responsibilities on schools when they are aware of and have control over gender-based violence and harassment, including sexual assault and sexual harassment. Colleges, either on their own or in compliance with Title IX, may

have rules regarding sexual violence or harassment, particularly when the situation is considered gender-based violence or harassment. You should be able to find a college's policies online by searching for "Title IX" and "sexual violence." Each school is required to have a Title IX administrator. To find out more or to seek assistance from your school, contact the school's Title IX administrator. To learn more about Title IX requirements or to make a complaint, see the website of U.S. Department of Education, **Office on Civil Rights, which oversees Title IX compliance.**

The victim will have the option to make a formal or informal complaint with the Title IX administrator. Regardless of whether they choose to make a formal or informal complaint, they should be informed of help and supportive services available. If a formal complaint is made, the Title IX administrator will conduct an investigation. During the process of conducting the investigation, the offender will be notified. When a victim makes a complaint of sexual violence to the Title IX Coordinator, the administrator will investigate the complaint through a series of interviews with the victim and the respondent. They will also speak to any witnesses and review evidence. The Title IX administrator will then issue an investigation report and set a date for a hearing.

The victim will be given the option to proceed with the hearing or to pursue an alternative resolution instead. At the hearing, the victim, respondent, and any witnesses will provide testimony, be questioned, and submit evidence. When all of the evidence has been reviewed, a hearing officer or hearing panel will decide whether the respondent is responsible and impose sanctions.

The victim has the right to hire an attorney throughout any part of the Title IX process. School administrators should not discourage the use of an attorney if the victim chooses. If it is believed that the school is purposely failing or delaying action

on the complaint, a complaint may be filed with the U.S. Department of Education, Office of Civil Rights.

K-12 Schools

Title IX, described above as it applies to colleges, is a federal law that applies to all schools that receive federal funding, which is virtually all public and many private K-12 schools. Many young students experience sexual assault or sexual harassment at school due to their actual or perceived sexual orientation or gender identity. Sometimes, these behaviors are characterized as bullying by schools, but they may actually be forms of sexual harassment. NJ LAD protections apply to students experiencing sexual violence based on their sexual orientation or gender identity.

Title IX requires schools to assist in protecting their students from discrimination. Title IX imposes responsibilities on schools when they are aware of, and have control over, gender-based violence and harassment, including sexual assault and sexual harassment. The school's response will differ depending on the age of the offender. In cases of peer-to-peer sexual assault or harassment between children, the school has a responsibility to protect the victim and other students, as well as provide instruction to correct the behavior. Sexual harassment and assault occurring at school to children, regardless of the age of the offender, will also implicate the New Jersey's child sexual abuse protocols and will likely result in a report made to the Division of Child Protection and Permanency (DCPP, sometimes referred to as DYFS).

As young people near adulthood, the school's responsibility shifts from their own protocols to holding the young offender accountable for their actions. Regardless of the age of the offender, once a school learns of the behaviors, they must take immediate steps to stop it or prevent it from happening again. Schools are prohibited from retaliating against students who disclose sexual violence.

Each school district is required to have a Title IX administrator. To find out more about your school district's rules, or to seek assistance from your school, contact the school district's Title IX administrator. To learn more about Title IX requirements or to make a complaint, see the website of U.S. Department of Education, ***Office on Civil Rights, which oversees Title IX compliance.***

Filing a Personal Injury Civil Lawsuit

When a person suffers an injury or a financial harm caused by negligence, carelessness, or intentional bad acts, they can sue for damages in civil court. When sexual violence results in injuries and/or financial expenses or losses, including medical bills, counseling, or loss of wages due to missed work, those damages may be recovered in a civil lawsuit. Such lawsuits are called “tort” claims or personal injury suits. To sue someone for injuries resulting from sexual violence, an action may be based on various claims including assault, battery, intentional infliction of emotional distress, or false imprisonment. A victim or their attorney might also pursue action against an employer or organization for negligence if the organization knew of the sexual violence and did not take action to stop it.

In 2024, New Jersey passed a law creating a new cause of action. This law made it possible to sue someone for compensation and punitive damages for the distribution of nude or sexually graphic photos or videos of the victim without consent.

Attorneys who bring personal injury lawsuits often do so on a contingency basis, meaning that they take no fee up front, but are paid a portion of the funds recovered through the lawsuit. The helpful part of that arrangement is that the victim who is suing does not have to have money before bringing the lawsuit. However, the attorney fee can be as high as one-third (33.3%) of the final judgment. This and other litigation costs, such as court filing fees, will come out of the money won in the lawsuit. Because attorneys under such “contingency” arrangements only get paid for their legal work and reimbursed for litigation expenses if the victim is awarded money, they often reject cases

where the evidence is not very strong, or the expected award is low.

In other words, an attorney might choose not to take a case without very solid proof and large damages, even though they believe the sexual offense happened. If you speak to an attorney about suing someone for sexual violence, be sure to ask for details about how the attorney will be paid. You can ask for the attorney's share to be smaller than what is proposed, but the attorney does not have to agree.

Currently all victims of sexual assault have seven years to pursue civil action against an offender. Adult survivors of childhood sexual abuse have additional time, and can pursue civil action until age 55 or seven years from the time they became aware that their trauma was linked with financial harm.

Financial Assistance From NJ's Victims of Crime Compensation Office (VCCO)

New Jersey's Victims of Crime Compensation Office (VCCO) has a fund to help with costs related to injuries suffered by innocent victims of violent crime or their families. Covered crimes include aggravated assault, assault by auto, bias crimes, burglary with a victim present, carjacking, child abuse, domestic violence, drug and food tampering, disorderly conduct, DWI, eluding a police officer, hit and run, homicide (including vehicular) or murder, human trafficking, kidnapping, lewd and indecent acts, sexual related crimes, stalking, and other crimes of violence (such as robbery or arson).

Who is eligible for assistance from the VCCO?

- A victim of a violent crime who has suffered injury (bodily harm or mental/emotional trauma) or was killed as the result of a compensable crime (one qualified to receive payment for damages)
- A surviving spouse, parent, guardian, or other person who depended on support from a victim who has died as a result of a crime. A parent can file on behalf of a dependent minor
- A person injured while trying to prevent a crime
- A person injured while trying to assist a police officer in making an arrest
- Secondary victims, including those who have sustained injury (usually mental health) or pecuniary loss (related

to money) as it directly relates to the crime committed upon a member of the secondary victim's family or upon any person in a close relationship with the secondary victim

Who is not eligible for assistance?

- A victim who lives outside of New Jersey
- A victim of a crime committed in a state other than New Jersey
- A victim who did not sustain personal injury or mental trauma
- A victim who does not cooperate with law enforcement
- A victim who was in jail when the crime occurred
- A victim who contributed to the crime
- A victim who was engaging in illegal activity at the time of the crime with pending criminal charges
- Anyone who has outstanding warrants
- A victim of a motor vehicle or boating accident (with certain exceptions)

Common crimes not covered

- Economic crimes
- Identity theft
- Property damage or loss (unless domestic violence)

What kinds of benefits are available from the VCCO?

- Expenses for medical treatment
- Loss of earnings
- Loss of earnings for a surviving spouse whose earning capacity has been reduced

- Loss of support from the victim for dependents
- Loss of support from the offender in domestic violence cases
- Funeral costs up to \$7,500
- Limited transportation costs
- Mental health counseling (homicide survivor, injured victim, secondary victim, group counseling) up to \$20,000
- Limited domestic service, child care, day care, and after-school care costs up to \$6,500
- Loss of prescription eyeglasses
- Crime scene cleanup up to \$4,000
- Relocation expenses up to \$3,000
- Attorney fees for representation of a victim
- Attorney fees for representation in VCCO process up to 15% of the VCCO award
- Emergency financial assistance up to \$1,500; if you are employed and unable to work and face undue hardship as a result of the crime
- Supplemental \$35,000 for rehabilitative services for catastrophic events only (counseling services, vehicle or home modifications, speech therapy)

The VCCO will pay crime-related expenses only after a victim or eligible person applies to other sources, such as state disability insurance, workers compensation, etc. Life insurance and private donations are not considered other sources. All medical bills must be first submitted to insurance providers; uninsured victims must first apply for CharityCare for hospital bills and submit award or denial letters to VCCO. If there is no coverage, bills should be presented to the VCCO as soon

as possible. All bills will be verified to establish accuracy and relationship to the crime.

The VCCO generally does not compensate for property loss or pain and suffering.

What is required to apply for VCCO reimbursement?

A person wishing to apply for reimbursement from the VCCO must:

- Complete and submit a VCCO application no later than five years from the date of the crime
 - If the victim is under the age of 18, the five-year limit on filing shall commence on the victim's 18th birthday
- Report the crime to law enforcement within nine months
- There may be an exception to the time limits listed above in certain circumstances when the victim or victims were not appropriately informed of the benefits offered by the office as required by law

An applicant should also supply these additional documents, if possible:

- A police report, restraining order, Division of Child Protection and Permanency investigation report, or prosecutor's office investigation report
- Copies of bills, receipts, or other documentation of expenses
- Documentation of economic loss
- Psychological assessment form
- Copies of any documents related to insurance coverage

The maximum benefit available is \$25,000 per victim. However, if it is determined that the event caused a catastrophic (extreme) injury, a person may be eligible for a supplemental amount of \$35,000 for rehabilitative services only. If a VCCO

award is denied to an applicant, they have the right to appeal the denial.

Application Tip: Separate applications should be completed for each victim. If a parent is applying for compensation on behalf of a minor, the minor is the “victim” and the parent is the “claimant” for application purposes. Similarly, if the filer is a person who was dependent on a victim who died as a result of an eligible crime, the deceased is the “victim” and the filer is the “claimant.”

How do I get an application for compensation from the VCCO?

Applications are available at each county prosecutor’s office, law enforcement agency, and medical institution in New Jersey, as well as online. The online application and further information can be found by visiting the **VCCO website**. Also, LSNJ has an Interactive Application for Victims of Crime Compensation, available through **LSNJLAWSM**.

You may also call the VCCO at 1 (877) 658-2221 Monday through Friday 9 a.m. to 5 p.m. or visit their **website homepage**.

Translation services are available in Spanish through VCCO to assist you in processing your claim.

Protecting Your Privacy and Online Information

*M*ost victims of sexual violence know the person who harmed them. In many cases, the offender may be a dating partner, family member, or someone you live or work with. Oftentimes, sexual violence is just one way the offender is trying to control the victim. They often employ other tactics like stalking or monitoring behaviors. If that is the case, it may be beneficial for you to protect your information online.

Protect Online Accounts

When using the internet, your online activity is stored in your web history, also known as a browser cache. For safety reasons, there may be times you want to conceal your online activity. The following tips can help your online privacy:

1. *Use private browsing.* By using private modes that most internet browsers have, you can visit a website without creating a web history.
2. *Clear your cache, history, and cookies.* If you do not use private browsing, browsers allow you to delete your cache, history, and cookies. Note: If someone is actively monitoring your device, erasing the data could alert them to your activity.
3. *Use a third-party device.* If you believe your device is being monitored, you can go to a library to use the computer or ask to use the computer of a close family member or friend.

Protect Your Private Information

An online presence and using social media can be a large part of social interaction and also something necessary for certain jobs. If your job requirements include an online presence and that makes you uncomfortable, you may want to consider speaking to your employer about your concerns. You can do this without mentioning your personal reasons. When it comes to personal online presence and social media accounts, you have the ability to choose the content you publish, but you don't have the ability to control what others do with it. You may want to consider the following when interacting online.

1. *Block, report and filter content.* Some posts can be harmful and triggering to you. Learn how each platform allows you to block, report, and filter harmful content.
2. *Privacy settings.* Learn how to adjust and personalize your privacy settings. This can be done on all social media platforms, as well as on browsers (for example, autofill functions), email, and apps that may need personal information to run (for example, Venmo or Spotify).
3. *Log out of browser and cloud service accounts.* If you have an account with your browser provider (Microsoft Edge, Google Chrome, Safari), they may store your browsing and search history on their servers for you to access from any browser you log in to. Log out of any such account before conducting your search. Similarly, cloud service programs, such as iCloud, sync your history and files across multiple devices. Check your settings carefully to see where your history and documents are being saved.
4. *Consider the content you post.* Consider whether you are comfortable with any content you post being available for others to see. This is especially important with sensitive content, such as pictures, personal information, and location.

5. *Turn off geolocation.* This can also be accomplished by setting your phone to airplane mode temporarily, turning off app permissions, and not allowing location tracking.
6. *Public Wi-Fi.* Be aware that whether you use your personal device or a publicly accessible device, if the Wi-Fi is public, your private information may be vulnerable.
7. *Set boundaries with family and friends.* Let family and friends know your preferences for them posting or tagging pictures, sharing personal information, or making public comments about you.
8. *Basic internet safety.* Think before you click. If something seems suspicious, don't click the post or link. This could be a malicious link from a hacker. Choose strong passwords, don't share them, and update them often.

Appendix

Other Resources

A Note About Using Hotlines and 24-hour Resources

If you would like to talk to an unbiased confidential third party about the crime committed or the impact it has had on your life, calling a hotline can help. All hotlines have staff trained in crisis counseling, and most are available 24 hours a day. Some offer texting options in case you are not comfortable speaking to someone on the phone. Hotlines can offer immediate support and referrals to related services.

Child Sexual Abuse

If the person who has experienced sexual violence is under the age of 13, the available resources and response may be different than that outlined above. Services will instead be guided by the Division of Child Protection and Permanency (DCPP, formerly known as DYFS). Sexual violence against children can be reported to the New Jersey Child Abuse hotline: 1-877-652-2873.

Resources

For other safety planning and prevention resources and tips, visit or call one of the following organizations.

If you have been a victim of sexual assault and want to report the crime, call 9-1-1 or your local law enforcement agency.

The New Jersey Coalition Against Sexual Assault maintains an up-to-date listing of sexual violence services throughout the state. It is searchable by county.

Website: ***New Jersey Coalition Against Sexual Assault***

National Sexual Violence Hotline

1-800-656-HOPE • www.rainn.org

NJ Coalition Against Sexual Assault (NJ CASA)

24-hour hotline, 1-800-601-7200 • www.njcasa.org

NJ Victims of Crime Compensation Office (VCCO)

1-877-658-2221

NJ Coalition to End Domestic Violence (NJCEDV)

1-800-572-7233

Notes

Sexual Assault Forensic Exam Kit #: _____

Forensic Nurse Examiner Name: _____

Contact: _____

Confidential Sexual Violence Advocate: _____

Contact: _____

Local Sexual Assault Response Organization:

24-hr Hotline #: _____

Physician: _____

Healthcare Facility: _____

First Responding Officer/Deputy/Trooper:

Badge: _____ Contact: _____

Detective: _____

Badge: _____ Contact: _____

Prosecutor: _____

Contact: _____

Notes

Lawyer: _____

Contact: _____

Case Docket Number: _____

Judge in my case is: Honorable _____

Title IX Coordinator: _____

Contact: _____

VCCO Claim #: _____

Notes



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LSNJLAWSM statewide toll-free legal hotline:

1-888-LSNJ-LAW (1-888-576-5529)

www.isnjlawhotline.org

