

SEXUAL ASSAULT IS A CRIME

If there is a police report filed, the police may be able to arrest the person who assaulted you (the 'assailant'). It will be up to the District Attorney (DA) to decide whether to prosecute. If the DA goes forward with the prosecution, you may be called as a witness. **You have important safety and confidentiality concerns that deserve protection during the criminal case.**

For example, you may want help with:

- Preparing for hearings;
- Protecting confidential information;
- Victim impact statements;
- Release and Probation rules that order the assailant to keep away from you or not to have guns;
- Victim compensation funds (*funds that can help pay for services necessary because of the crime*)

For more information about your rights in a criminal proceeding, contact the victims' assistance office located in the county where the crime is being prosecuted. To find out if you are eligible to be reimbursed for the expenses you incurred as a result of the crime, contact CVC at (503) 378-5348.

WHAT IS A CIVIL LEGAL REMEDY?

A civil legal remedy is a legal action that does not involve the criminal courts. Regardless of whether the District Attorney or the police have been involved with your case, there are civil actions you can take for your protection, or against the assailant to compensate you for the harm you have suffered. This pamphlet summarizes some of the civil legal remedies that may be available to you if you were a victim of sexual assault. For more information, and for a list of resources, consult www.oregonlawhelp.org.

CIVIL PROTECTION ORDERS

Regardless of whether you reported your assault to the police or whether there are criminal charges against an assailant, you may qualify for a civil order of protection. Civil protection orders are free. They require the assailant to stay away from you. In some circumstances, protection orders can also require the assailant to stay away from your children or other members of

your family or household. If the assailant violates a civil order of protection, arrest is required.

FAPA Restraining Order: A FAPA restraining order may be issued against the assailant if you have a certain underlying relationship with the assailant, if you were assaulted within the last 6 months, and if you are in imminent danger of further abuse.

To get a FAPA, the person who assaulted you must have been one of the following:

- Your spouse or former spouse;
- The other parent of your child;
- An adult related by blood, adoption, or marriage;
- Someone you have lived with as a partner; or
- Someone with whom you have been sexually intimate in the past two years.

If you do not have an underlying relationship with the person who assaulted you, you cannot get a FAPA order.

Stalking Protection Order: A Stalking Protection Order may be issued against a person who has stalked you at least twice in the past two years, if each of the stalking contacts put you in reasonable fear for your physical safety. You may get a Stalking Protective Order against a stranger.

You may want to think about whether an assault or threatened assault can be broken down into more than one 'contact.'

EPPDAPA Protection Order: An EPPDAPA Protection Order may be issued for your protection if you are elderly or disabled and if someone has physically harmed you, threatened you, harassed you, or used sexual comments or conduct against you which threatened you with significant emotional or physical harm within the last six months and if you are in immediate and present danger of further abuse.

Civil Protection Order terms in Custody or Divorce Proceedings: It is possible to include civil protection order terms in a custody or divorce proceeding, if you have been married to or have a child with the person who assaulted you.

If you do not qualify for any of the above protection orders, you still deserve to be safe. There are protections available through criminal proceedings, and you may have other options. A lawyer or an advocate can help.

HOUSING PROTECTION

If you have been a victim of sexual assault, there are certain housing protections available:

- C A landlord may not discriminate against you on the basis of your sex. If you feel your landlord is treating you differently than other tenants because you were sexually assaulted, you may want to see a lawyer.
- C You may ask your landlord to change the locks on your home, at your expense. If the assailant is a co-tenant on the lease, you must have a FAPA restraining order that orders the assailant to move out of the house to get this relief.
- Oregon law says that if you have to move for safety reasons, you may be able to break your lease without paying a penalty. This law applies if you have been a victim within the last 90 days, you give 14 days' written notice of termination to the landlord, and if you give the landlord a copy of: a police report; a criminal or civil protection order; or a written statement from a law enforcement officer.
- If you are worried about losing your Section 8 or other housing benefits because of a sexual assault, there may be steps you can take to protect your benefits. You may want to contact a lawyer for assistance.

EMPLOYMENT PROTECTION

- If you feel you are being treated differently by your employer because you have been a victim of sexual assault, you may want to contact a lawyer about your options.
- If you are unsafe at work, ask your employer to take steps to help keep you safe. For example, you could ask for a different work assignment; a change of shift; better security lights, or other safety measures. If the assailant is a co-worker, the employer could discipline the assailant or order the assailant not to have contact with you.
- In many circumstances you and your family members are entitled to take time off work to attend criminal proceedings

against the perpetrator. Ask for more information.

- If safety concerns force you to leave work, you may still get unemployment compensation benefits, if any reasonable person using ordinary common sense would have quit.

IMMIGRATION PROTECTION

- If you are undocumented and have been a victim of sexual assault, sex trafficking, rape, or other sex crime you and your children may qualify for a special Visa to remain in the U.S.
- If you are undocumented, seeking legal status, and have been the victim of sexual assault by a spouse (or former spouse within 2 yrs) or parent who is a U.S. Citizen or lawful permanent resident, you may qualify to 'self-petition' the INS for lawful residency without the assailant knowing. You may also qualify for suspension of deportation proceedings.

FAMILY LAW PROCEEDINGS

- If the other parent of your child is found to have abused you, either by sexually assaulting you, physically injuring you, or threatening you with injury, then the law presumes that it is not in the best interests of the child to be placed in the joint or sole custody of the abuser.
- When ordering parenting time, the judge may consider your safety needs. If you have been assaulted by the other parent of your child and you need protection in parenting time arrangements, you may want to ask for a safety-focused parenting plan in your divorce or custody order.
- You may ask permission to move more than 60 miles further away from the other parent without giving advance notice.
- If you have children and are afraid of the other parent or of someone else, you may ask to keep certain information about your home telephone, place of employment, driver's license, etc. out of the public record for safety reasons.
- You may use a contact address in place of a residential address in any family law proceeding.

CHILD SUPPORT

If you have a child with the person who assaulted you, there is important protection available.

- If you would like to receive child support from the person who has assaulted you, but do not want that person to have access to any of your personal identifying information because of safety concerns, you can fill out a "Claim of Risk" form. If you tell your DHS worker about the danger, and provide a contact address, the State of Oregon must protect the confidentiality of your personal identifying information when establishing or collecting child support.
- If there would be no safe way for you to get child support from the person who sexually assaulted you, tell your worker. The state cannot try to get child support from the assailant if you have good cause to be afraid because of rape, incest, sexual assault, or domestic violence.
- If you get child support, you can use an 'address of record' (that is, a contact address in the state of Oregon) instead of a residential address in your child support proceedings.

ADMINISTRATIVE BENEFITS

- You may apply for social security benefits if the assault caused you debilitating physical or psychological damage.
- Temporary Assistance to Domestic Violence Survivors (TA-DVS): There is limited assistance available through the Department of Human Services to victims of domestic violence who have children, are low-income, and who need financial help to stay safe. If you have been assaulted by a family member or former partner, ask about these benefits.

CIVIL MONETARY DAMAGES (TORT) CASES

If you are a survivor of sexual assault, you may have an action for money damages against the assailant for the emotional and physical injuries suffered. Money damages could be for pain and suffering, medical expenses, reimbursement for safety related expenses like changed locks or moving costs, and other things. A successful case could make it easier for you to rebuild your life after assault. However, a tort action will not address immediate needs. **In Oregon, you may have only two years from the time the assault occurred to file a tort action.** There may be some exceptions. Consult a lawyer.

CIVIL LEGAL REMEDIES FOR SEXUAL ASSAULT SURVIVORS

If you have been a victim of sexual assault, you deserve help and support.

If you have been a victim of sexual assault, criminal charges may be pressed against the perpetrator (the person who assaulted you). Regardless of whether the assaulter is charged with a crime, there may be civil legal remedies available to you. This pamphlet will discuss some of the civil legal remedies you may wish to consider.

For more information, consult www.oregonlawhelp.org

**National Sexual Assault Hotline
1-800-656-HOPE**

**Legal Aid Services of Oregon
Oregon Law Center
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This pamphlet is for general educational use ONLY. It is not a substitute for individual legal advice. Consult an attorney for more information or for advice. The information in this pamphlet is accurate as of November 2003. Please remember the law is always changing through actions of the courts, legislature and agencies.