

# Legal Options for Victims of Sexual Violence in Vermont

Produced by  
**The Vermont Network Against  
Domestic and Sexual Violence**

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## Legal Options for Victims of Sexual Violence in Vermont

As a victim of sexual violence you are probably receiving a lot of information about what to do next. This information can be confusing and overwhelming especially given what you have recently experienced.

This booklet is a brief introduction to the civil and criminal legal options available to you in Vermont. For more information about your options, please speak with a confidential advocate from your local Network program. At the end of this booklet there is a list of Network programs including contact information. If you would like more options and details than this booklet offers, you can also ask the advocate for a copy of the **“Civil Legal Issues for Survivors of Sexual Violence” guide for Vermont advocates**. The advocates’ guide provides more in-depth information about the options and processes described in this booklet.

**There are many important legal and safety issues you may need to think about before choosing any legal option. Please contact your local Network sexual violence program at 1-800-489-7273, VT Legal Aid at 1-800- 889-2047, or a private attorney for more information about your options and rights as a victim of sexual violence. Contact information for many resources is available at the end of this booklet.**

## **Basics of Civil Law**

**The civil court** and the criminal court are two completely separate court systems. In civil court, you are the person who initiates the court action. The two types of civil courts that a sexual assault victim may be likely to use in Vermont are the Family Division of the Superior Court and the Civil Division of the Superior Court. In the Family Division you might request a protection order if the perpetrator is a family member, a member of your household or someone with whom you had a dating relationship. In the Civil Division you might request a stalking and sexual assault protection order against someone you do not have a familial or household relationship with, or you might also file suit for damages against your perpetrator in this court. In these civil courts you initiate a court action by filing a form (called a complaint) with the civil court to start your court case. You decide what type of court case you want to file and what types of things you want to ask for from the Judge. In civil court, you are the plaintiff. In general, you decide if and how you want to continue with your case.

**In the criminal system**, on the other hand, the police and the State's Attorney initiate the case by charging the perpetrator with a crime. The state of Vermont is the plaintiff in a criminal case. Even though you are *not* the plaintiff in criminal court, the State's Attorney will want to hear from you as the sexual assault victim. The State's Attorney will consider your input but the State's Attorney

will make the final decisions about the case and whether it will go forward.

## **Privacy**

You may have concerns about what information is private and confidential and what information may be put in court/public record.

### **Which communications are confidential?**

Communications with advocates from local Network domestic and sexual violence programs and private lawyers are confidential if those communications are made to them privately. This means they cannot share any information you have shared with them with another person, including identifying information about you or even that you spoke with them in any capacity, unless you specifically give them written permission to share that information. There may be some rare exceptions to the confidentiality of the communications with Network advocates. You can talk to the Network program advocate if you have concerns.

### **Which communications are *not* confidential?**

Communications in a criminal case with the police, the victim advocate from the state's attorney's office and the state's attorney are not confidential. The police and the victim advocate from the state's attorney's office must disclose information you share with them to the state's attorney. In some cases, the state's attorney must share information about you with the perpetrator's defense lawyer.

**Will my private medical or mental health records be confidential?** This will depend on the case. For a criminal case, medical records that help provide evidence that you were assaulted will probably be used by the state's attorney. State's attorneys are required by law to share information about the case with the perpetrator's defense lawyer. In addition, the defense attorney may want to access your mental health records or other private records if it might help defend their client. They would have to make a formal request to the court. If the judge decides that your private records would be relevant and necessary for the defense lawyer, then your private records may be shared with the defense. If the judge decides that your private records are not relevant or necessary, then your records will remain confidential. It may be helpful to discuss any concerns you have about your private records with a private lawyer or a Network program advocate.

**Civil Protection Orders**  
**(also called APOs, RFAs, SSAs, TROs and Restraining Orders)**

Protection Orders are civil orders meant to protect a victim of sexual assault, domestic violence or stalking from the person who hurt them. It is important to understand that the civil protection order process is a separate process from the police and the criminal system. You may apply for a civil protection order regardless of what may or may not be taking place in the criminal system. This booklet describes two types of protection orders that may be helpful to victims of sexual assault: Orders Against Stalking & Sexual Assault

(through the Civil Division of Superior Court) and Relief from Abuse Orders (through the Family Division of Superior Court).

***\*PLEASE NOTE: Before you file for any protection order for sexual assault: If you are considering reporting the assault to the police, a protection order could interfere with the police investigation. Please contact your local Network program for more information and assistance. If you have already made a police report, consider contacting the police or the state's attorney before you apply for an order.***

**Orders Against Stalking and Sexual Assault**

This is a civil protection order obtained in the Civil Division of Superior Court. It can order the perpetrator to stay away from you and not to contact you in any way. If the perpetrator violates one of these orders, the violation is a crime and the police may arrest him or her.

There are two requirements for obtaining an Order Against Stalking and Sexual Assault:

1. This order can only be obtained when the victim and the perpetrator are *not* family or household members and have never been in a dating or sexual relationship. To qualify for this order the victim and the perpetrator must:
  - not be family members,
  - not be dating or sexual partners,
  - not be household members.

For example you may qualify for an Order Against Stalking and Sexual Assault if the perpetrator is a stranger, an acquaintance, a co-worker, a classmate, a neighbor, or a distant relative.

**If the perpetrator is an immediate family member or household member or a dating or intimate partner** you may qualify for a Relief from Abuse Order. Please see the Relief From Abuse Order Section for more information.

2. The Judge finds by a preponderance of the evidence (meaning more than 50% of the evidence) that the perpetrator committed one of the following acts against you or your minor child:
  - Sexual assault or aggravated sexual assault
  - Lewd and lascivious contact with a child
  - Stalking.

You will need to write a statement for the judge about what happened and may later need to testify at a hearing about the sexual violence. If you would like to know what meets these legal definitions call your local program or go to Vermont Statutes Online. See the Legal Resources Section for where to locate the statutes. Orders Against Stalking and Sexual Assault are outlined in 12 VSA, Chapter 178.

**What kinds of protections does an Order Against Stalking and Sexual Assault offer?** This order could require the perpetrator to:

- stay a specific physical distance away from you

- not contact you in other ways, such as phone contact and sending letters or emails
- not try to communicate with you through another person.

**How do I apply for an Order Against Stalking and Sexual Assault?** Apply at the Civil Division of Superior Court in your area during business hours only. It is free of charge. Call your local Network program if you would like an advocate to assist you through the process or if you are considering applying for an order and you would like to discuss your options.

Below is very basic outline of the steps for obtaining an Order Against Stalking and Sexual Assault.

**Step 1.** Complete court forms and file these forms with the Civil Division of Superior Court. You will then be given a date for a hearing. The perpetrator must be given a copy of all your paperwork and notice of the hearing date by a police officer.

**If you are in immediate danger you may apply for a temporary order to protect you while you are waiting for the hearing. You can only apply for this temporary order during business hours at the Civil Division of Superior Court. If you have concerns about your safety which cannot wait until business hours, contact police (911).**

**Step 2.** At the hearing the judge may ask you to describe how the perpetrator stalked you or sexually assaulted you. The perpetrator will then be given an opportunity to tell his/her side of the story. The judge will decide whether to grant the

order. If you would like an advocate from your local sexual violence program to attend your hearing with you, call your local program in advance.

**How is the Order enforced?** If your perpetrator contacts you or does something else the order says they can't do, you can call the police. If the police have enough information they can arrest the perpetrator for breaking the order. You can call your local sexual violence program for more information about how orders are enforced.

### **Relief from Abuse Orders (a.k.a. RFA, APO)**

This is a civil protection order obtained in the Family Division of Superior Court to protect a person from sexual or domestic violence or stalking by a family or household member or an intimate partner. It can order the perpetrator to stay away from you and not to contact you in any way. If the perpetrator violates a condition of the order, the violation is a crime and the police may arrest them.

You may also file for an order on behalf of your minor children. If you are filing for an order for your child against the other parent, it is important to speak with an attorney or advocate as it may impact a custody case.

There are two requirements for a Relief from Abuse Order:

1. You may qualify for this order if:

- the perpetrator is your family member (includes current and ex-spouses),
  - you date or ever dated the perpetrator,
  - you and the perpetrator have ever had sex,
  - you live with the perpetrator, OR
  - you've ever lived with the perpetrator
2. The level of abuse must meet a legal standard and you must show that you are in danger of future abuse. The law defines abuse as:
- causing physical harm;
  - attempting to cause physical harm;
  - placing you in fear of immediate physical harm;
  - child abuse;
  - sexual assault, aggravated sexual assault;
  - lewd and lascivious conduct with a child; or
  - stalking.

### **What kinds of protections can I request in my Relief from Abuse Order?**

Protections may include:

- the perpetrator to stop abusing and/or your children
- the perpetrator to stay a certain number of feet away from you and/or your children all the time
- the perpetrator leave your home and stay away
- you have temporary custody of your children
- if you are married to the perpetrator, s/he may have to pay your living expenses for up to three months

- if the perpetrator is parent to your child or children, s/he may be ordered to pay child support for up to three months
- protection for pets

### **How do I apply for a Relief from Abuse Order?**

Below is very basic outline of the steps for getting a Relief from Abuse Order. Call your local Network program if you would like an advocate to assist you through this process or if you are considering filing for an order and you have questions about your options.

#### **Step 1. File for a Temporary Relief from Abuse Order:**

During business hours complete court forms at the Family Division of Superior Court in your area. If it is not safe to wait for regular business hours, you may complete these forms at a police department where a court staff person will meet you.

- a) A judge will decide whether or not to grant your temporary order based on the information you provide on the form. You will then be given a date for a hearing.
- b) If the temporary order is granted, the police will give (“serve”) the perpetrator with the temporary order, a copy of your court forms and a notice for a final hearing date.

**Step 2.** At the final Relief from Abuse Order hearing a judge will ask some questions about the sexual assault and/or abuse. An advocate may

accompany you to court. The perpetrator will also have the opportunity to tell his or her side of the story. The judge will also ask what kinds of protections you want included in your final order. You can talk to an advocate about your options for the terms of the order. The judge will make the decision about whether a final order will be granted and the terms of the final order.

### **How is the Relief from Abuse Order enforced?**

If the perpetrator does something the order says s/he can't do, you can call the police. If police have enough information they can arrest your perpetrator for breaking the order.

## **Divorce, Parentage, Child Custody and Visitation**

If you are married or in a civil union with the person who sexually assaulted you, you may want to legally end your relationship through a divorce, civil union dissolution or legal separation. If you share a child with the perpetrator you may also want to establish custody and visitation. In Vermont, divorce, legal separation and civil union dissolution are handled through the Family Division of the Superior Court.

The major issues that are addressed through divorce or civil union dissolution usually include:

- *Parental Rights and Responsibilities* (typically called child custody) – who the children live with

- *Parent Child Contact* (also called visitation) – how much time the children will spend with each parent
- *Child Support* – how the children will be financially supported
- *Division of property and finances*
- *Who will pay outstanding bills or debt*
- Whether there will be *spousal support* (alimony)

### **Parentage**

Parentage is a child custody action for unmarried parents who would like a court order to address custody, visitation and child support. Parentage cases are handled in the Family Division of Superior Court. Unlike divorce, parentage orders do **not** include property division, outstanding debt or alimony.

### **Representing Yourself or Hiring a Lawyer**

Divorce and child custody can be one of the most difficult legal problems victims of sexual violence may face. If your spouse or the parent of your child sexually assaulted you or your children, it may be very helpful to hire a lawyer. However, many people cannot afford to hire an attorney and must proceed as a “pro se” litigant. Pro se means you are representing yourself.

*\*There may be attorneys available to either give you legal advice or in some cases represent you at your hearing free of charge. Call your local domestic or sexual violence program for information about legal resources.*

## **Police and the Criminal System**

**What will the police do if I report?** If you tell the police about what happened to you or your child they may charge the person who assaulted you or your child with a particular crime(s) and may arrest him or her. Because this is the criminal system, the police will have to decide whether what happened to you or your child was a crime and whether there is “probable cause”. Probable cause basically means they will determine if it was more likely than not that a crime occurred. They will then decide whether or not to charge and arrest the perpetrator. A person charged with a crime is called a *defendant*.

The choice of reporting a sexual assault to the police can be difficult. Advocates from your local Network program are available to provide you more information about reporting and can support you in whatever you decide is right for you.

### **What happens after the perpetrator is arrested?**

An arrest is the beginning of the criminal process. Once someone is arrested they may be released immediately, released at any point in the criminal process or, in severe cases, remain in jail. This will depend on many complicated legal factors. Defendants released from jail before the end of the case will be given “conditions of release” by the court. This is an order that the defendant must follow while the criminal case is going forward. Often the conditions will tell the defendant not to have contact with you as the victim of the crime.

As a victim of a crime you have the right to know if and when the defendant is getting released from jail and his/her conditions of release. Some victims may have increased safety concerns following an arrest. You may

call your local Network program for more information and support.

### **Prosecution of crimes of sexual violence**

Following a charge/ arrest, the police transfer the case to the prosecutor, also called the state's attorney. A prosecutor is a lawyer who works for the state through the state's attorney's office. The state's attorney's job is to continue to gather evidence to prove that the defendant committed the crime and to prepare the case against the defendant. The state's attorney decides how to proceed with the criminal case.

### **State's Attorneys' Victim Advocates**

The state's attorney's office also has its own victim advocates. They provide information and updates on the case. They can also offer support and help with communicating your concerns and questions to the state's attorney. Because these advocates work for the state's attorney, they are *not* confidential. This means that the state's attorney's advocates may be required to share relevant information you share about the case with the state's attorney.

### **Sentencing**

If the defendant pleads guilty or is found guilty after a trial, the judge will impose a sentence. A sentence may include a probation term, time in jail or a combination of both. In many cases, sentencing will also require the defendant to participate in a sex offender treatment program. You may be present in the court room during the sentencing if you want. As a victim you have the right to make a "Victim Impact Statement" to the court. This is your time to describe the impact that the crime had upon

you and your family. An advocate or family member may read your Victim Impact Statement for you.

### **Department of Corrections**

Once the defendant has been sentenced, the Department of Corrections (DOC) will supervise him/her for the duration of the sentence. DOC is responsible for ensuring that the offender is following the terms of the sentence. DOC's Victim Services Program is available to provide information about the status of an offender and support to victims of crime whose offenders are in the custody of Vermont DOC. You can also register to receive automatic notifications by phone or email about the offender's status. For more information, you can contact DOC's Victim Services at (802) 241-2302 or online at <http://www.doc.state.vt.us/victim-services>.

## **Legal Information for**

### **Immigrants and Refugees**

If you immigrated to the United States or you are uncertain about your legal status you may have many concerns about how your legal status affects your rights. Federal law, through the Violence Against Women Act, provides protection of immigration status for certain women who have been sexually assaulted. Some immigrant women may not qualify for these protections. Immigration law is complicated and requires an expert attorney. It is very important to get help from a knowledgeable immigration lawyer before you file anything in court. Any information you share with your attorney is confidential.



## Resources in Vermont for Immigrants and Refugees

- South Royalton Legal Clinic  
(802) 831-1500
- Vermont Legal Aid  
1-800-889-2047 <http://www.vtlegalaid.org/>
- Vermont Refugee Resettlement Program  
(802) 655-1963  
<http://www.vrrp.org/>
- Vermont Immigration and Asylum Advocates  
(802) 864-3200  
[www.vermontrefugeeassistance.org](http://www.vermontrefugeeassistance.org)
- Legal Momentum, Immigrant Women's Program  
(202) 326-0040  
iwp@legalmomentum.org

## Legal Resources

**Please Note: Computer use can be monitored and is impossible to completely clear. If you are concerned about your computer use being monitored, please use a safer computer, perhaps at your local library.**

Below are some resources available to help you:

- Your local **Network domestic/sexual violence program** can give you referrals to legal resources that may be available to you. Go to [www.vtnetwork.org](http://www.vtnetwork.org) or see the listing below.
- If you are low-income, **VT Legal Aid** and the *Law Line of Vermont* may provide legal advice and help

in preparation for your hearing. In some types of cases, a Legal Aid lawyer may be able to represent you in court. Call 1-800-889-2047 or link to <http://www.vtlegalaid.org/> for information about their services.

- **The South Royalton Legal Clinic** provides legal advice. (802) 831-1500
- **Have Justice Will Travel** provides advice and may be able to represent you for certain types of cases that are in certain parts of the state. (877) 496-8100 or [www.havejusticewilltravel.org](http://www.havejusticewilltravel.org).
- Check with the Family Division of Superior Court in your area or your local Network domestic /sexual violence hotline about free legal clinics in your area.
- If you have some finances, but not enough to hire a lawyer to represent you, consider hiring an attorney just to get legal advice.
- If you can use a computer, go to [www.vtlawhelp.org](http://www.vtlawhelp.org) for an explanation of the laws.
- Local courts have pamphlets that explain the divorce and custody process. Link to <http://www.vermontjudiciary.org/GTC/Family/Pamphlets.aspx> for the pamphlets on line.
- Local family courts offer a free class for *pro se* litigants (people who are representing themselves).

- Vermont Statutes Online:  
<http://www.leg.state.vt.us/statutes/statutes2.htm>
  - Sexual assault is listed under Title 13, Chapter 72
  - Stalking and domestic assault are listed under Title 13, Chapter 19
  - Lewd and lascivious contact and voyeurism are listed under Title 13, Chapter 59
  - Orders Against Stalking and Sexual Assault are listed under Title 12, Chapter 178
  - Relief from Abuse Orders are listed under Title 15, Chapter 21

**Vermont Network Against Domestic and Sexual Violence – Member Programs By County**

**Addison County and the town of Rochester**

***WomenSafe***

Hotline: (802) 388.4205 or (800) 388.4205

TTY: 802/388.4305

Web: [www.womensafe.net](http://www.womensafe.net)

**Bennington County**

***PAVE (Project Against Violent Encounters)***

Hotline: (802) 442.2111

**Caledonia, Orleans and Essex Counties**

***Umbrella*** Hotline: (802) 334.0148-Newport  
 (802) 748-8645-St. Johnsbury

Web: [www.umbrellanek.org](http://www.umbrellanek.org)

**Chittenden County**

***Women's Rape Crisis Center***

Hotline: (802) 863.1236 TTY: (802) 846.2544

Web: [www.stoprapevermont.org](http://www.stoprapevermont.org)

***Women Helping Battered Women***

Hotline: (802) 658.1996 (also TTY#)

Web: [www.whbw.org](http://www.whbw.org)

**Franklin and Grand Isle Counties**

***Voices Against Violence***

Hotline: (802) 524.6575

**Lamoille County**

***Clarina Howard Nichols Center***

Hotline: (802) 888.5256

Web: [www.clarina.org](http://www.clarina.org)

**Hardwick area of Caledonia County**

***AWARE***

Hotline: (802) 472.6463

**Orange and Northeastern Windsor:**

***Safeline***

Hotline: (800) 639.7233

**Rutland County**

***Rutland County Women's Network & Shelter***

Hotline: (802) 775.3232

Web: [www.rcwn.org](http://www.rcwn.org)

**Washington County**

***Circle***

*(formerly Battered Women's Services And Shelter)*

Hotline: (877) 543.9498

***Sexual Assault Crisis Team (SACT)***

Hotline: (802) 479.5577

**Windham County**

***Women's Crisis Center (WCC)***

Hotline: (802) 254.6954 or (800) 773.0689

**Windsor County (Northeast)**

***WISE*** Hotline: (603) 448.5525 or (866) 348.WISE

Web: [www.wisefoftheuppervalley.org](http://www.wisefoftheuppervalley.org)

**Windsor County (southern parts)**

***New Beginnings*** Hotline: (802) 885.2050

**Specialized Advocacy Services in Vermont**

**SafeSpace** – LGBTQQ Survivors of Violence

Warmline/Office: (802) 863.0003

Email: [SafeSpace@ru12.org](mailto:SafeSpace@ru12.org)

**Deaf Vermonters Advocacy Services (DVAS)**

TTY: (802) 479.1934 or (800) 303.3827

Email: [kdarling@dvas.org](mailto:kdarling@dvas.org)