

Safety

Protective Orders and Peace Orders

You can apply to the courts for either a peace order or a protective order to keep the perpetrator away and receive other types of help. You can apply for a protective order from the District or circuit court and you can apply for a peace order from District Court. When courts are closed, orders can be obtained from a Commissioner.

- Protective orders are designed for victims of domestic violence, including domestic sexual assault. To seek a protective order, you must be related to the perpetrator by one of the following: being a spouse, former spouse, or a family member; having a child in common; living together for 90 days within the past year and having a sexual relationship; or by being a “vulnerable adult” – unable to care for yourself.
- Protective orders can help with family-related matters, including custody, visitation, removing the perpetrator from the home, emergency support, and other relief.
- Peace orders are designed for non-family members, including people who are dating, neighbors, co-workers, and strangers. You have 30 days from the time a sexual assault, harassment, or other “qualifying act” occurred to seek a peace order.
- If you pressed criminal charges or might do so, you should consult with a lawyer before seeking a peace order.

Criminal Cases and Safety

- Defendants in criminal cases are often released on bail until the trial. Perpetrators of sexual assault should be ordered to stay away from you as a condition of release. Talk to the prosecutor’s office about this.
- If you would be in danger if the defendant knew your address, your address can be kept confidential.

Safety Planning

- Make a plan about what to do if the perpetrator approaches you.
- Carry a charged cell phone.
- Tell people where you will be.
- Call your local rape recovery center for more help with safety planning.

Survivors of sexual assault need more than prosecution of offenders.

The Sexual Assault Legal Institute (SALI) provides legal advice, representation and referrals for survivors of sexual assault.

SALI is committed to survivor-centered advocacy and respect for client decision-making.

SALI also provides legal education, technical assistance and information for professionals working with survivors.

For more information, contact:

SALI
Sexual Assault Legal Institute

P.O. Box 8782, Silver Spring, Maryland 20907
301-565-2277 | 877-496-SALI
fax: 301-565-3619

Identificando Temas Legales para
Víctimas de Asalto Sexual
LISTA DE REVISIÓN PARA
SOBREVIVIENTES

Preparation of this document was supported by grant numbers 2003-WL-BX-0054, 2005 WL-AX-0091 and 2010-SW-AX-0037, awarded by the Office on Violence Against Women, U.S. Department of Justice and grant number SASP-2009-1007, awarded by the Governor’s Office of Crime Control & Prevention (GOCCP). The opinions, findings, and conclusions expressed in this document are those of the author(s) and do not necessarily represent the official position or policies of the U.S. Department of Justice or GOCCP.

Identifying Legal Issues for victims of Sexual Assault

A CHECKLIST FOR SURVIVORS

SALI
Sexual Assault Legal Institute

A Program of the Maryland Coalition Against Sexual Assault

Survivors of rape and sexual assault often face more than criminal justice issues – they may also have other legal problems resulting from the crime. Common legal issues that confront victims involve safety, employment, family law, financial, housing, immigration, privacy, or educational concerns.

This brochure is designed to help survivors identify what non-criminal legal issues might affect their situation. The Sexual Assault Legal Institute (SALI) has attorneys to help victims with these and other issues related to sexual violence.

**Call 301-565-2277 or
877-496-SALI for help.**

Employment

If you need time off from work or cannot work because you were assaulted, the law may give you a right to:

- Disability benefits
- Time off under the Family Medical Leave Act

Sexual assault that happens in relation to your work may be a form of Sexual Harassment that violates Title VII of the Civil Rights Act. Title VII claims can be filed with the Federal Equal Employment Opportunity Commission (EEOC), any County Human Relations Office, or the Maryland Commission on Human Relations. There are short deadlines for filing, especially if you work for the government.

Housing

Private and Public Rental Housing

- Maryland law allows tenants the right to end a lease because of a sexual assault **IF** you provide written 30-day notice and a copy of a peace or protective order. If you do not have a peace or protective order, then you may be able to work out an agreement with your landlord to end a lease early. If this is the case and if you choose to break your lease by leaving your apartment, your landlord must try to rent the apartment to someone else before s/he can make you pay for the months remaining on the lease.
- Victims of violence in private housing have been evicted because the perpetrator was their “guest” or lived with them. Contact a lawyer immediately if you are facing this situation.

Public Housing

- If you are a victim of domestic violence — including domestic sexual assault — you may be eligible for priority when applying for public housing.

See section on Safety for more information on protective orders.

Financial

Criminal Injuries Compensation

You may be eligible to have expenses and lost wages paid by the Maryland Criminal Injuries Compensation Board if you:

- Reported the sexual assault to the police.
- Had to spend at least \$100 of your own money on assault-related expenses or lost at least 2 weeks’ wages.
- Filed a claim within 3 years of the assault.

For claim forms call 888-679-9347 or go to www.dpscs.state.md.us.

Immigration

Sexually Assaulted Family Members and Self-Petitions

Sexually assaulted family members of U.S. citizens or green card holders (lawful permanent residents) may be able to ask the government for their own green card without the abuser’s help or knowledge. This process is called self-petitioning. You can ask for your green card if you are:

- A sexually assaulted spouse of a U.S. citizen or lawful permanent resident. Unmarried children under the age of 21 may be included in your request for permanent residence.
- Married to a U.S. citizen or lawful permanent resident who sexually assaulted your child.
- A sexually assaulted child (unmarried and under 21 years old) who has been assaulted by a parent who is a U.S. citizen or lawful permanent resident.

Restitution as Part of a Criminal Case

- If the perpetrator is prosecuted and convicted, he can be ordered to pay for your expenses. Talk to your attorney or the prosecutor about this before the trial ends.

Suing the Perpetrator

In a “civil tort lawsuit,” a victim hires an attorney to sue someone for damages (money) for the physical and/or emotional harm inflicted or damage done to their property. If you have been sexually assaulted, you may be able to sue either:

- The perpetrator or
- A third party (For example; the perpetrator’s employer, your landlord, your university, etc.).

Sexually Assaulted Victims may be eligible for U and/or T Visas

U visas give authorization to live and work in the U.S. You may be eligible for a U visa if:

- You are a non-citizen;
- You have suffered great physical or mental abuse resulting from criminal activity, including rape, human trafficking, incest, sexual assault, abusive sexual contact, prostitution, or sexual exploitation; and
- You help with the investigation or prosecution of the crime.

T visas allow victims of human trafficking to remain in the U.S. You may be eligible for a T visa if you help federal authorities in the investigation and prosecution of a human trafficking case.

School

If you were assaulted at school, by another student, or by school personnel, you may have legal needs related to your education. For example a student victim may wish to seek a peace order to keep a perpetrator away from school. (See section on Safety.)

Schools are required to:

- Tell you where to go for help if you are sexually assaulted.
- Give you a copy of the school’s policy regarding sexual assault.
- Notify you of the outcome of the school’s investigation and what punishment the perpetrator received for assaulting you.

Sexual assault that happens at school or school events may be a form of sexual harassment. Your school may be liable in court if:

- The harassment is so severe and offensive that it detracts from your education; and
- You are denied equal access to the school’s resources and opportunities.

Family Law

- Sexually assaulting a spouse is grounds for divorce in Maryland as “cruelty of treatment”.
- If you have a child in common with the perpetrator, or your child was sexually assaulted by the other parent, it is important to get legal advice about custody.
- If you are pregnant with a child conceived through rape, consult a lawyer before filing any legal case.

Privacy

- Ask who will have access to information before telling the the court, law enforcement, or anyone else your whereabouts or other personal information.
- Prosecutors represent the State of Maryland, not the victim. Consult your own attorney about protecting your privacy. Find a lawyer immediately if your private records are demanded by the court (subpoenaed).