

A Survivor's Rights

A sexual assault survivor has the legal right to:

- ▶ Make the decision whether to file a police report or information report.
- ▶ Be provided with written notice of crime victims' rights and information and referrals, including a referral to a sexual assault program, at initial contact with law enforcement. *CCP Article 56.07*
- ▶ Sensitive and skilled treatment in Texas emergency rooms. *HSC Chapter 323*
- ▶ Refuse to take a lie detector test. *CCP Article 15.051*
- ▶ Use a pseudonym and have her or his name, address and phone number kept out of court files relating to their case. *CCP Article 57.02*
- ▶ Reimbursement, through the Crime Victims' Compensation Program, for financial losses resulting from the criminal conduct, including medical costs, moving costs and lost wages. *CCP Article 56.31 – 56.64*
- ▶ Have her or his attacker tested for HIV and receive notice of the test results after indictment. *CCP Article 21.31*
- ▶ Have her or his safety considered when bail is set. *CCP Article 56.02*
- ▶ Be notified of all legal proceedings, including parole proceedings, after making a written request for notification. *CCP Article 56.02*
- ▶ A private waiting area, separate from other witnesses, before testifying in court. *CCP Article 56.02*
- ▶ Write a victim impact statement and have the statement considered during punishment and parole proceedings. *CCP Article 56.03*
- ▶ Upon meeting certain eligibility requirements, maintain a confidential address through the Texas Address Confidentiality Program. *CCP Article 56.81*

Statute of Limitations

CCP Article 12.01

Felony indictments must be presented within these time limits:

No limitation:

- ▶ Continuous sexual abuse of a young child/children
- ▶ Aggravated sexual assault of a child
- ▶ Sexual assault of a child
- ▶ Indecency with a child
- ▶ Sexual assault of an adult if DNA evidence is present

20 years from the victim's 18th birthday:

- ▶ Sexual performance by a child
- ▶ Aggravated kidnapping with intent to commit sexual offense
- ▶ Burglary of habitation with intent to commit sexual offense

10 years from the date of the commission of the offense:

- ▶ Sexual assault of an adult
- ▶ Aggravated sexual assault of an adult

Sections 21 and 22 of the Texas Penal Code define indecency with a child, sexual assault, aggravated sexual assault and other sex crimes.

In these cases, "child" means a person younger than 17 years of age who is not the spouse of the actor.

Resources

Rape Abuse Incest National Network

1-800-656-4673 • www.rainn.org

Texas Advocacy Project

1-888-296-7233 • www.texasadvocacyproject.org

Legal Aid

Texas RioGrande Legal Aid
1-888-988-9996 • www.trla.org

Legal Aid of NorthWest Texas
1-888-429-5277 • www.lanwt.org

Lone Star Legal Aid
1-800-733-8394 • www.lonestarlegal.org

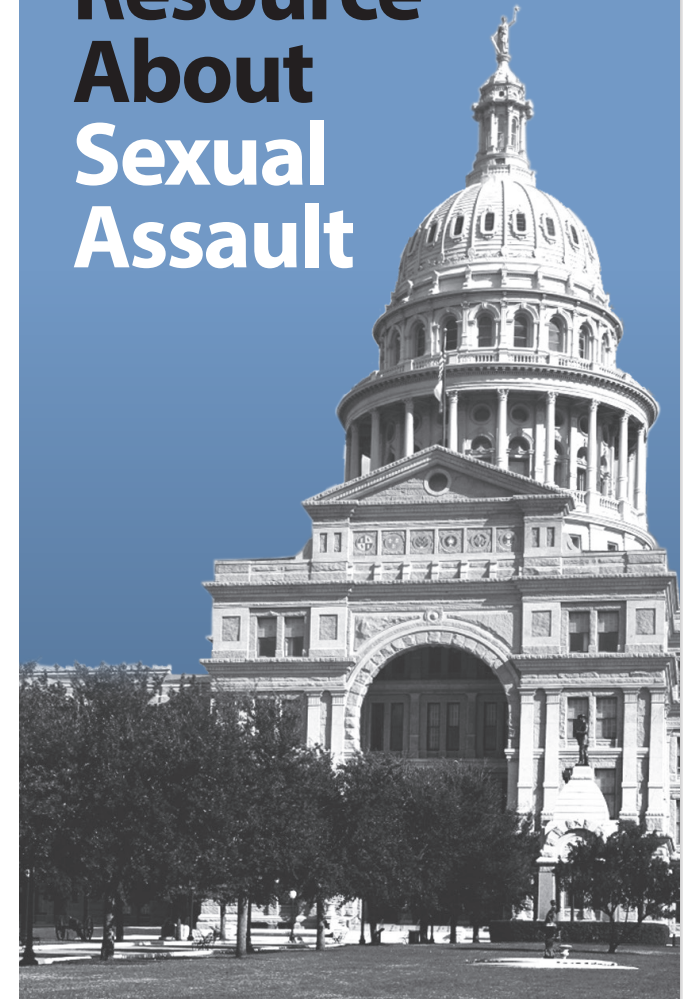
Legal Hotline for Older Texans

1-800-622-2520 • www.tlsc.org/hotline.html

Texas Civil Rights Project

1-512-474-5073 • www.texascivilrightsproject.org

A Legal Resource About Sexual Assault



taasa
TEXAS ASSOCIATION AGAINST SEXUAL ASSAULT

6200 La Calma, Suite 110
Austin, Texas 78752
www.taasa.org

National Sexual Assault Hotline
Free. Confidential. 24/7.

1-800-656-HOPE

A Legal Resource About Sexual Assault

This brochure is designed to serve as an easy guide to the major sexual assault-specific statutes in Texas and is intended to accurately represent those statutes. This brochure is not meant to serve as a comprehensive list of all laws which might affect a sexual assault survivor in Texas nor as a definitive interpretation of Texas law. Advocates, survivors and others should always refer to actual statute or consult with an attorney when questions arise.

“CCP” refers to the Texas Code of Criminal Procedure and “HSC” refers to the Texas Health and Safety Code. Definitions of sex crimes and assaultive offenses are found in chapters 21 and 22 of the Texas Penal Code. All codes can be found online at www.statutes.legis.state.tx.us.

At the Hospital:

If a sexual assault occurred in the past 96 hours, a hospital must either provide a forensic exam for the collection of evidence or transfer the survivor to a hospital that will provide the forensic exam.

HSC 322.004

A sexual assault survivor should never be charged for the cost of the forensic exam, regardless of whether they report the assault to law enforcement.

CCP Article 56.06 and 56.065

A sexual assault survivor has the right to have a sexual assault program advocate, or another support person of their choosing, present during the forensic exam.

CCP Article 56.045

Bail, Bond and Continuances

The accused has a right to reasonable bail. Bail must be high enough to ensure that the accused comes to court, but bail cannot be used as punishment. The nature of the offense as well as the future safety of the victim and the community shall be considered.

CCP Article 17.15 and Article 17.40

For victims of a sexual offense who are under 14 years of age, a magistrate shall order, as a condition of bond, the defendant to avoid communicating with or going near a school, residence or other location frequented by the child. If the defendant violates one of these conditions, the magistrate may revoke bond and deny future release.

CCP Article 17.41 and 17.153

For victims of family violence and children under 17 years of age who are victims of assault or sexual assault, the court should consider the impact of a continuance on the victim before granting or denying a continuance. If requested, the court shall state on the record the reason for granting or denying the continuance.

CCP Article 29.14

Civil Suit

A survivor can file a lawsuit against her/his attacker. The attacker could be ordered to pay money to compensate the survivor for physical and/or emotional damages. In limited situations, a survivor may also be able to hold a third party responsible. The burden of proof is lower in civil court than in a criminal prosecution.

Attorneys will take on these types of cases if the attacker or third party has assets (or money). If the attacker doesn't, then it is usually impossible to obtain damages awarded by the court, therefore most lawyers will not take the case. Survivors may want to consult with a civil attorney to decide whether to sue the perpetrator or a negligent third party.

A survivor of sexual assault who is under 18 years of age may utilize a pseudonym during civil court proceedings to keep their identifying information confidential.

Civil Practices and Remedies Code, Sec 32.013

Protective Orders

A protective order is a civil court order that can have both civil and criminal consequences if it is violated. A person who has a protective order entered against him or her may be arrested and prosecuted if they violate the protective order. It is not necessary for criminal charges to be pressed in order to apply for and receive a protective order.

Sexual assault victims may apply for a protective order no matter the relationship between themselves and the assailant. A survivor or the parent/guardian of a child survivor may apply for a protective order on their own (pro se) or with the assistance of an attorney. Sexual assault protective orders are typically valid for two years, but lifetime orders are also available. Go to www.women-law.org/documents.php to download forms and instructions.

CCP Chapter 7A

A magistrate's order for emergency protection (emergency protective order) may be issued at a defendant's appearance before a magistrate after arrest for an offense involving family violence, sexual assault or stalking. They last from 31-91 days and provide protection while a victim follows the lengthier process of seeking a long-term protective order.

CCP Article 17.292

Confidentiality vs. Privilege

The Texas Rules of Evidence, Article V (rules 501-513) contains the following rules governing communications:

- ▶ A confidential communication is one that is not intended to be disclosed to a third party, but must be disclosed in court.
- ▶ A privileged communication is one that does not have to be disclosed, even in a court of law or legal proceeding.
- ▶ Communication between an advocate and a survivor that is made in the course of providing sexual assault advocacy services is confidential.

HSC 44.071