

# A Guide To Victim's Rights



As a victim or witness, you have certain rights within the system.

This booklet is being provided to you to assist you with questions you may have regarding those rights.

Officer \_\_\_\_\_

Report # \_\_\_\_\_

**NEW PORT  
RICHEY POLICE  
DEPARTMENT**

## WHO IS A VICTIM?

“A victim is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. **The term victim includes the victim’s lawful representative, the parent or guardian of a minor, or the next of kin of a homicide victim, except upon a showing that the interest of such individual would be in actual or potential conflict with the interests of the victim.** *The term “victim” does not include the accused.*” Article I, Section 16(b)(11), Florida Constitution



**This brochure provides an overview of the criminal justice process and your rights within this process. The person providing you this brochure may only handle a portion of the process. The last page of this brochure provides contact information for agencies that can assist you.**

## AS A CRIME VICTIM, THE FLORIDA CONSTITUTION GUARANTEES YOU THE FOLLOWING RIGHTS

### *Article 1, Section 16(b), Florida Constitution*

- **The right to** due process and to be treated with fairness and respect for your dignity.
- **The right to** be free from intimidation, harassment, and abuse.
- **The right,** within the judicial process, to be reasonably protected from the accused and any person acting on behalf of the accused. However, this is not intended to create a special relationship between the crime victim and any law enforcement agency or office absent a special relationship or duty as defined by Florida law.
- **The right to** have your safety and welfare as well as your family's considered when setting bail, including setting pretrial release conditions that could affect you or your family's safety and welfare.
- **The right to** prevent the disclosure of information or records that could be used to locate or harass you or your family, or which could disclose your confidential or privileged information.
- **The right to** the prompt return of your property when no longer needed as evidence in the case.
- **The right to** full and timely restitution in every case and from each convicted offender for all losses you suffered, both directly and indirectly, because of the criminal conduct.
- **The right to** proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related post judgment proceedings. (In appropriate cases, the prosecutor may file a good faith demand for a speedy trial. In non-capital cases, all state-level appeals and post-conviction proceedings must be complete within two years and five years for capital cases, unless the court enters an order with specific findings concerning why the court was unable to do so and the circumstances causing the delay.)
- **The right to** be informed of your state constitutional rights, and to be informed that you can seek the advice of an attorney with respect to your rights.

## AS A CRIME VICTIM, YOU ARE AFFORDED THE FOLLOWING CONSTITUTIONAL RIGHTS UPON REQUEST

- **The right to** reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct, including, but not limited to, trial, plea, sentencing, or adjudication, even if you will be a witness at the proceeding, notwithstanding any rule to the contrary. **(For this purpose, consider providing the prosecutor an address, an email address, or a telephone number at which you can be reached quickly, and update this information during the pendency of your case.)** You shall also be provided reasonable, accurate, and timely notice of any release or escape of the defendant or delinquent, and any proceeding during which a right of yours is implicated.
- **The right to** be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of yours is implicated.
- **The right to** confer with the prosecuting attorney concerning any plea agreements, participation in pretrial diversion programs, release, restitution, sentencing, or any other disposition of the case.
- **The right to** provide information regarding the impact of the offender's conduct on you and your family to the individual responsible for conducting any presentence investigation or compiling any presentence investigation report, and to have any such information considered in any sentencing recommendations submitted to the court.
- **The right to** receive a copy of any presentence report, and any other report or record relevant to the exercise of a victim's right, except for such portions made confidential or exempt by law.
- **The right to** be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.
- **The right to** be informed of all postconviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender. The parole or early release authority shall extend the right to be heard to any person harmed by the offender.
- **The right to** be informed of clemency and expungement procedures, to provide information to the governor, the court, any clemency board, and other authority in these procedures, and to have that information considered

before a clemency or expungement decision is made; and to be notified of such decision in advance of any release of the offender.

## **ALL RIGHTS AFFORDED BY THE CONSTITUTION ARE ENFORCEABLE**

### *Article 1, section 16(c), Florida Constitution*

The victim, the retained attorney of the victim, a lawful representative of the victim, or the office of the state attorney upon request of the victim, may assert and seek enforcement of these rights and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding the disposition of your right shall be clearly stated on the record.

## **ADULT CRIMINAL JUSTICE PROCESS**

The stages of the criminal justice system are as follows:

### **PRETRIAL**

After committing a crime:

- An offender may be arrested by a law enforcement officer.
- A court can issue an arrest warrant.
- A State Attorney's Office may file an Information; or
- A grand jury may recommend charges by returning an Indictment or Presentment.

**FIRST APPEARANCE** - (Following the Arrest) If the defendant cannot post bond within hours of the arrest or has been arrested on a no bond offense, or committed a crime which requires a first appearance, the court holds a "first appearance" hearing. The Judge decides whether the defendant can be released and if so, what conditions are necessary to protect you and the witnesses and the public.

**INTAKE** – If probable cause is found, the State Attorney's Office may choose to file charges and summons the suspect into court. You may be required to meet with your State Attorney's office.

Law enforcement, prosecuting attorneys or any other government official cannot ask or require a victim of a sexual offense to submit to a polygraph examination or truth telling device as a condition of the investigation.

**FILING OF FORMAL CHARGES** - The State Attorney's Office may file formal charges after reviewing law enforcement arrest reports, and within 21 days in certain circumstances. The State Attorney's office has discretion whether to prosecute a person for a crime. The State Attorney's Office must inform any victims of its decision.

**ARRAIGNMENT** - The accused is formally charged and enters a plea of guilty, not guilty, or no contest. The State Attorney's Office will notify you of the arraignment date. You have the right to be present at the arraignment. In some cases, there will not be a formal arraignment hearing in court.

**RELEASE HEARING (SETTING BOND)** - If the defendant was unable to post a bond after the initial arrest, or if bond was not set, the defendant is entitled to a bond hearing. The State Attorney's Office will notify you of the scheduled hearing and you will have an opportunity to speak regarding the defendant's release and conditions or have the State Attorney make known your wishes.

**PRE-TRIAL CONFERENCE** - There may be numerous pre-trial conferences (including case status conferences) that allow the court to ensure the case is progressing in a timely manner. You, as a victim, will receive notice of the hearing dates. You are not required to attend these hearings, unless subpoenaed, but you have a right to be present and a victim advocate or your attorney can accompany you or attend these proceedings on your behalf, if you choose.

**DISCOVERY (PREPARATION FOR TRIAL)** -

**Subpoenas.** You may receive a subpoena for trial, a deposition and/or other hearings. A subpoena summons a person to appear at the time date and location specified.

**Depositions.** The defendant's attorney can issue a subpoena for you to appear for a deposition. You have the right to request a victim advocate from the government or non-profit sector to attend the deposition with you. You have the right, as a victim who is not incarcerated, to not be required to attend discovery depositions in any correctional facility.

**PLEA NEGOTIATIONS** - Many cases are settled through a plea negotiation where the defendant pleads guilty or no contest without a trial. The State Attorney's Office must consult with the victim of the crime before finalizing the plea agreement with the defendant.

**PRE-TRIAL INTERVENTION/DIVERSION PROGRAM** - According to their discretion and office policy, the State Attorney's Office may agree to utilize pretrial intervention and diversion programs.

**Pre-Trial Intervention Program.** Defendants with no more than one nonviolent misdemeanor, who is charged with any misdemeanor or any third degree felony is eligible for release to the pretrial intervention program on approval of the administrator of the program and the consent of the victim, the State Attorney, and the judge. Successful completion of the program results in a dismissal of the charges.

**Diversion Program.** Diversion is similar to probation where the defendant accepts responsibility for the offense and is released under supervision for six months to a year. During the program, the probation office supervises the defendant. You have a right to provide the State Attorney with your opinion on the defendant's participation in the pretrial diversion program.

## TRIAL

Generally, the prosecutor presents evidence to either the judge or a jury about the case. The defendant may be found guilty or not guilty. The process ends if the defendant is found not guilty. You, as a victim, may be called to testify.

The State Attorney's Office will assist you during this process. You cannot be excluded from any hearing, trial or proceeding relating to the offense. Your rights involving the trial stage are listed in this brochure.

## SENTENCING

**PRESENTENCE INVESTIGATION (PSI)** - You have the right to provide information regarding the impact of the offender's conduct on you and your family to the individual responsible for conducting and/or compiling the presentence investigation. You have a right to review the non-confidential portions of the presentence investigation prior to the sentencing hearing.

**SENTENCING HEARING** - If the defendant is found or pleads guilty, the judge reviews sentencing guidelines, plea agreements, and other factors and determines what type of sentence the defendant should receive. You have a right to provide an oral and/or written victim impact statement (VIS) to the State Attorney's Office at any time before the court imposes the sentence.

NOTE: If the victim and the offender attend the same school, the victim's parents have the right to attend the sentencing or disposition of the offender and request that the offender be required to attend a different school. (sec. 960.001(1)(s), Florida Statutes)

## JUVENILE JUSTICE PROCESS

**INTAKE** - The process of determining where a child under the age of 18 will be placed until the case is resolved. There are three forms of detention status: home, non-secure or secure.

**DIVERSION PROGRAMS** – This is an alternative to trial where the juvenile is placed in a community- based program such as juvenile arbitration, juvenile alternative services program (JASP), or a treatment plan (Walker plan). If a juvenile successfully completes the diversion program, then the charges are generally dismissed.

**FORMAL CHARGES** - The filing of a petition in court by the State Attorney's Office. The charge may be filed in either juvenile court or adult court, depending upon the crime and age of the offender.

**ARRAIGNMENT** - The accused is formally charged and enters a plea of guilty, not guilty, or no contest.

**ADJUDICATORY HEARING** - The trial of the juvenile, conducted in front of a judge. The judge will decide whether the juvenile committed the charged offense(s).

**DISPOSITIONAL HEARING (SENTENCING)** - When a juvenile is found to have committed a delinquent act, the court will hold a dispositional hearing to determine which sanctions to impose on the juvenile. The sanctions could range from community-based sanctions like probation and community services up to residential commitment.

**JUVENILES TRIED AS ADULTS** - Juveniles who commit very serious crimes may be tried as adults. Juveniles who are prosecuted as adults may be sentenced to adult or juvenile sanctions.

*This is not an exhaustive overview of the criminal justice system but is meant as an overview for how the process works. Each court and case could have unique components. You may contact your State Attorney or law enforcement agency for more information regarding the stages of the criminal justice and juvenile justice processes.*

## **ADDITIONAL VICTIMS' RIGHTS UNDER FLORIDA STATUTES**

- You have the right to employ private counsel.
- In some cases, you (or relatives where the victim is deceased) may be eligible for financial compensation from the State of Florida. Information regarding eligibility may be obtained from the State Attorney's Office, local Witness Coordination Office (where available), law enforcement agency or from the Bureau of Crimes Compensation, Office of the Attorney General - 1-800-226-6667, website: [www.myfloridalegal.com/pages.nsf](http://www.myfloridalegal.com/pages.nsf). The right to receive information on available crisis intervention services and local community services to include counseling, shelter, legal assistance, or other types of help, depending on the particular circumstances. Telephone numbers of these services are provided at the end of this brochure. (sec. 960.001(1)(a)1, Florida Statutes)
- The right to receive information regarding the stages of the criminal justice or juvenile justice processes and the way information about such stages may be obtained. (sec. 960.001(1)(a)4, Florida Statutes)
- A victim who is incarcerated has the right, upon request, to be informed and submit written statements at all stages of the criminal and juvenile proceedings. (sec. 960.001(1)(a)6, Florida Statutes)
- The right to receive information on the steps available to law enforcement and the State Attorney's Office to protect you from intimidation and/or harassment.  
It is a third-degree felony to knowingly use intimidation or physical force; threaten another person or attempt to do so; engage in misleading conduct toward another person; or offer pecuniary benefit or gain to another person. If you are being threatened or intimidated, please contact the New Port Richey



Police Department or any law enforcement officer. (sec. 960.001(1)(c), *Florida Statutes*)

- The right of the victim of domestic violence to be informed of the address confidentiality program administered through the Attorney General's Office. You may contact the Attorney General's Office at 1-800-226-6667. The State Attorney's Office may assist with this paperwork if necessary. (sec. 960.001(1)(c), *Florida Statutes*)
- The right of each victim, or witness, who has been scheduled to attend a criminal or juvenile justice proceeding to be notified as soon as possible by the agency or person scheduling his/her appearance of any change in scheduling which will affect the victim's or witness's appearance. (sec. 960.001(1)(d), *Florida Statutes*)
- The right to receive advance notification of judicial and post judicial proceedings relating to the case, including all proceedings or hearings relating to:

The arrest of the accused.

The release of the accused pending judicial proceedings, and any modification of release condition to include release to community control or work release.

Proceedings in the prosecution or petition for delinquency of the accused, including the filing of the accusatory instrument; the arraignment; disposition of the accusatory instrument; trial or adjudicatory hearing, sentencing or disposition hearing; appellate review; subsequent modification of sentence; collateral attack of a judgment; and when a term of imprisonment, detention, or involuntary commitment is imposed, the release of the defendant or juvenile offender from such imprisonment, detention or juvenile offender from such imprisonment; detention or commitment by expiration of sentence or parole and any meeting held to consider such release. (sec. 960.001(1)(e), *Florida Statutes*)

- In addition to the provisions of sec. 921.143, *Florida Statutes*, the rights of the victim of a felony involving physical or emotional injury or trauma, or in a case in which the victim is a minor child or in a case involving a homicide, the guardian or family of the victim shall be consulted by the State Attorney in order to obtain the views of the victim or family about the disposition of any criminal or juvenile case brought about as a result of such crime, including their views about:

The release of the accused pending judicial proceedings.

Plea Agreements.

Participation in pretrial diversion programs.

Sentencing of the accused. (sec. 960.001(1)(g), *Florida Statutes*)

- The right to request that the State Attorney or law enforcement agency help you explain to employers and creditors that you may face additional burdens by taking time off from work to assist law enforcement and you may undergo serious financial strain either because of the crime or by cooperating with authorities. *(sec. 960.001(1)(i), Florida Statutes)*
  - Law Enforcement agencies and the State Attorney shall inform you of your right to request and receive restitution and of your rights of enforcement in the event an offender does not pay. The State Attorney shall seek your assistance in the documentation of your losses for the purpose of requesting and receiving restitution. If an order of restitution is converted to a civil lien or civil judgment against the defendant, the Clerk of Court's office shall make available at their office, as well as on their website, information provided by the Secretary of State, the court, or The Florida Bar on enforcing the civil lien or judgment. The State Attorney shall inform you if and when restitution is ordered. *(sec. 960.001(1)(j), Florida Statutes)*
  - The right to receive reasonable consideration and assistance from employees of the State Attorney's Office, Sheriff's Office, or Police Department. When requested, you will be assisted in locating accessible transportation and parking and shall be directed to separate pretrial waiting areas when such facilities are available. When requested, you shall receive assistance in attempting to locate translators when practicable. *(sec. 960.001(1)(n), Florida Statutes)*
  - The right of the victim of a sexual offense to have the courtroom cleared, with certain exceptions during his or her testimony, regardless of the victim's age or mental capacity. *(sec. 960.001(q), Florida Statutes)*
1. The right to request, in certain circumstances that the offender be required to attend a different school than the victim or siblings of the victim. If the victim of an offense committed by a juvenile is a minor, the victim or any sibling of the victim attends or is eligible to attend the same school as that of the offender, the Department of Juvenile Justice or the Department of Corrections shall notify the victim's parent or legal guardian of the right to attend the sentencing or disposition of the offender and request that the offender be required to attend a different school. *(sec. 960.001(1)(s), Florida Statutes)*
  2. The right of the victim who is not incarcerated to not be required to attend discovery depositions in any correctional facility. *(sec. 960.001(6), Florida Statutes)*
  3. The statutory obligation of the victim, parent/guardian of a minor victim, or next of kin of a homicide victim, that any information gained pursuant to Chapter 960, Florida Statutes, regarding any case handled in juvenile court, must not be revealed to any outside party, except as reasonably necessary in pursuit of legal remedies. *(sec. 960.001(8), Florida Statutes)*

4. The right to know in certain cases and at the earliest possible opportunity, if the person charged with an offense has tested positive for hepatitis and human immunodeficiency virus (HIV) infection. In such cases, upon request of the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, the court shall order such person to undergo hepatitis and HIV testing within 48 hours after the charging document is filed or 48 hours from the date of request. (*Section 960.003, Florida Statutes*)
5. The right of a victim of a sexual offense to request the presence of a victim advocate during the forensic medical examination. An advocate from a certified rape crisis center shall be permitted to attend any forensic medical examination. (*sec. 960.001(1)(u), Florida Statutes*)
6. If a victim has been diagnosed with autism or an autism spectrum disorder, he or she or the parent or guardian, has the right to request that a public safety official make a good faith effort to ensure that a related professional, such as a mental health counselor, special education instructor or clinical social worker be present for all interviews of the individual. All expenses related to the attendance of the professional at the interviews are the responsibility of the requesting victim, parent or guardian; however, the defendant shall reimburse the victim for all expenses related to the attendance of the professional at the interviews, in addition to restitution and penalties provided by law. (*sec. 943.0439, Florida Statutes*)
7. The right of a victim, if contacted, to obtain information relating to a criminal proceeding by an attorney, investigator, or any other agent acting on behalf of the criminal defendant, to be informed of (1) the person's name and employer and (2) the fact that such person is acting on behalf of the defendant. (*sec. 960.001(1)(v), Florida Statutes*)

## **FSS 794.052 SEXUAL BATTERY VICTIMS' RIGHTS AND SERVICES**

Below are rights for victims of sexual battery as outlined by Florida State Statute Title XLVI Chapter 794.052.

You have the right to:

- Obtain a forensic exam whether or not you report to law enforcement
- Have an advocate at the forensic exam with you
- Have the forensic exam sent for testing within 30 days, if reported to law enforcement
- Review the law enforcement report prior to final submission
- Be informed, present, and be heard at all crucial stages of the criminal or juvenile proceeding
- Have an advocate with you during a discovery deposition
- Have identifying information about the criminal investigation kept confidential
- Have the offender, if charged, tested for HIV and hepatitis
- Attend sentencing or disposition of the offender
- Notification of judicial proceedings and scheduling changes

- Notification about the release of incarcerated offender
- Request restitution
- Give a victim impact statement
- Not be subjected to a polygraph
- Take up to 3 days of leave from work (with eligible employer)
- Apply for an injunction if you fear for your safety or offender is nearing release

You may be eligible for financial assistance through Victims Compensation for medical care, lost income, mental health services, relocation, and other expenses related to injuries as a result of the crime.

Victims of sexual crimes need compassion, sensitivity and empathy. Being the victim of a crime can be overwhelming. Your reactions are normal. Local certified rape crisis centers have advocates who are there to help all victims, regardless of whether or not they report to law enforcement. Services are free and confidential – certified rape crisis centers are legally and ethically required to protect your confidentiality, unless you allow, in writing, the release of your information. Advocates are available to:

- Provide crisis intervention
- Speak to you on the 24-hour hotline
- Discuss your options
- Navigate available resources
- Go with you to appointments
- Address safety concerns
- Advocate on your behalf
- Help you apply for victim compensation

The certified sexual violence center for Pasco County is Sunrise of Pasco (352-521-3120).

In Florida, the legal term for rape or sexual assault is sexual battery (F.S. 794.011). Sexual battery means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object, committed without your consent. Consent means intelligent, knowing, and voluntary consent and does not include coerced submission. Failure to offer physical resistance to the offender does not imply consent. A person under 16 years of age cannot legally consent to sex. Also, a person 24 years of age or older or a person in a familial or custodial position of authority cannot receive consent from 16 and 17 year old minors.

What is a forensic exam? The forensic exam is a head-to-toe exam to collect evidence and check for injuries after a sexual crime.

What are my rights with regard to the exam?

- Stop the exam at any time
- Have an advocate from a rape crisis center with you
- Be informed about the status of the kit during processing

What evidence is collected? During the exam, the medical professional may collect blood, urine, saliva, pubic hair combs and/or nail samples. They may also collect items

of your clothing. They will ask you questions about the crime and your medical history in order to help them collect evidence.

A law enforcement officer who investigates an alleged sexual battery shall:

- a. Assist the victim in obtaining medical treatment, if medical treatment is necessary as a result of the alleged incident, a forensic examination, and advocacy and crisis-intervention services from a certified rape crisis center and provide or arrange for transportation to the appropriate facility.
- b. Advise the victim that he or she may contact a certified rape crisis center from which the victim may receive services.
- c. Prior to submitting a final report, permit the victim to review the final report and provide a statement as to the accuracy of the final report.

The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available to a victim on a standard form developed and distributed by the Florida Council Against Sexual Violence in conjunction with the Department of Law Enforcement. The notice must include the resource listing, including telephone number, for the area certified rape crisis center as designated by the Florida Council Against Sexual Violence.

## **MORE INFORMATION FOR YOU, THE VICTIM OR WITNESS**

**POSSIBILITIES OTHER THAN TRIAL** – Plea negotiations may take place between the State Attorney and the defendant and his/her attorney. In the plea negotiation of his/her charge(s), the defendant may be offered a specific disposition in exchange for a guilty plea.

**NOTIFICATION TO EMPLOYER AND CREDITORS** – A victim or witness who so requests shall be assisted by law enforcement or the State Attorney's Office in informing employers of the need of his/her cooperation in the prosecution of the case which may also necessitate some absences on the part of the employee from his/her place of employment, and an explanation to the creditors or a victim or witness about any serious financial hardship incurred as a direct result of a crime.

**RETURN OF PROPERTY** – Upon your request, the police will attempt to return your property to you promptly and substitute photographs in its place unless there is a compelling reason for retaining it until after the trial process is over. Questions may be directed to New Port Richey Police Departments Property/Evidence at (727) 841-4550 x5.

**SUBPOENA** – You may be receiving a subpoena for certain hearings and the trial. A subpoena is a court order to appear at the time and date indicated. You are required to contact the Victim/Witness Management Team upon receipt of the subpoena.

**DRESS REQUIREMENTS** – Subpoenas and notifications will remind you that you are required to dress appropriately for the courtroom. For example, tank tops, shorts, or mini-skirts would be inappropriate. Courtrooms are usually quite cool, so you might want to bring a light jacket or sweater.

**ADA ASSISTANCE** – If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Contact the following agencies at least seven days before your scheduled court appearance, or immediately upon receiving the notification if the time

- Pasco County Customer Service Center, 8731 Citizens Drive, New Port Richey, FL 34654 at (727) 847-2411 (V)
- Pasco County Risk Management Office, 7536 State Street, New Port Richey, FL 34654 at (727) 847-8028 (V)
- If you are hearing or voice impaired, call 711

**VICTIM COMPENSATION** – If you are the victim of a crime, you may be eligible for monetary reimbursement of medical bills, mental health counseling bills, and loss of wages through the Florida Victim Compensation Program. The purpose of the program is to provide compensation to innocent victims of crime or their families who suffer physical injury or death as a direct result of a crime. Elderly or disabled adults who suffer a property loss that causes a substantial diminution in their quality of life may be eligible for compensation. Additional benefits include, funeral expenses, loss of support and disability.

In order to apply for Crime Victim Compensation, you must complete an application and mail it to the Bureau of Victim Compensation. These forms are available through the New Port Richey Police Department, the State Attorney's Office, or by contacting the Attorney General's Office at (800) 226-6667.

**VICTIM NOTIFICATION** - You will be receiving notices of various hearings that will occur during the course of the criminal process. These notices will differ from your subpoena since they are merely to inform you of the activity of the case and your opportunity, if you wish, to be present at these hearings.

## **DOMESTIC & SEXUAL VIOLENCE**

### **Notice of Legal Rights and Remedies**

There is a law that protects you if you are being physically or sexually abused or threatened by a family or household member, or you fear such abuse. The law protects you if you are being abused or threatened by your spouse, former spouse, or another family or household member who IS or WAS living in the same household as you. The law protects you from abuse by a person whom you have a child in common. You don't have to be married to the abuser or related to be protected.

### **What is Domestic Violence?**

Under the provisions of Section 741.28, F.S., domestic violence means any assault, aggravated violence, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. This includes acts such as:

**Physical Abuse** – pushing, slapping, kicking, punching, choking, and beating (Section 741.30 F.S.)

**Emotional/Verbal Abuse** – credible threats, verbal intimidation, following and stalking, or acting out in anger (Section 741.30 F.S.)

**Sexual Abuse/Battery** – any unwanted touching or forcing of someone to engage in a sexual act against his/her will (Section 784.046 F.S.)

### **What is Sexual Violence?**

Under the provisions of Section 784.046 of the Florida Statutes, sexual violence is one incident of

- Sexual battery, as defined in chapter 794;
- A lewd or lascivious act, as defined in chapter 800, committed upon or in the presence of a person younger than 16 years of age;
- Luring or enticing a child, as described in chapter 787;
- Sexual performance by a child, as described in chapter 827; or
- Any other forcible felony wherein a sexual act is committed or attempted, regardless of whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney.

### **What is Dating Violence?**

Under the provisions of Section 784.046 of the Florida Statutes, dating violence is violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

- A dating relationship must have existed within the past 6 months;
- The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
- The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social content.

### **What is Repeat Violence?**

Under the provisions of Section 784.046 of the Florida Statutes, repeat violence means two incidents of violence or stalking one of which must have been within 6 months of filing a petition and must have been directed against the petitioner or the petitioner's immediate family member.

### **What is Stalking?**

Under the provisions of Section 784.048 of the Florida Statutes, stalking occurs when a person willfully, maliciously, and repeatedly follows, harass, or cyber stalks another person.

Aggravated stalking occurs when that person makes a credible threat to that person through stalking.

### **What Does the Law Mean?**

If someone is abusing you physically or sexually, threatening you, falsely imprisoning you, or if a family or household member is stalking you, there is a law to protect you. Family or household member means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have resided together in the same single dwelling unit in the past. The law also protects you if you are currently in or have been in a violent dating relationship within the last 6 months.

You have the right to ask the State Attorney to file a criminal complaint, and you have the right to go to court and file a petition requesting an injunction for protection against domestic violence, repeat violence, dating violence, sexual violence, or stalking if you are

- The victim of domestic violence, repeat violence, dating violence, sexual violence, or stalking
- The parent of any minor child living at home who is seeking an injunction for protection against domestic violence, repeat violence, dating violence, sexual violence, or stalking OR
- If you have reasonable cause to believe, you or your minor child is in imminent danger of becoming the victim of any act of domestic violence.

This may include, but need not be limited to provisions that

- restrain the abuser from further acts of abuse;
- direct the abuser to leave your household;
- Prevent the abuser from being within 500 feet of your residence, school, business, or place of employment;
- Award you custody of your minor child or children;
- Direct the abuser to pay support to you and the minor child or children if the abuser has a legal obligation to do so.

For safety reasons, you may furnish your address to the court in a separate confidential filing when filing the petition for injunction. You are not required to remain in a residence or household where you are a victim of domestic violence. Your address may be different from that of your partner without penalty.

If you are the or have been the victim of domestic violence, repeat violence, dating violence, sexual violence, or stalking, or if you are afraid that you will be hurt, Florida's domestic violence law enables you to work with the court system to help keep you safe. Contact your



local domestic violence center for safety planning prior to filing for an injunction. The Clerk of the Court is required to assist you in seeking both injunctions for protection and enforcement for a violation of an injunction. Representation by an attorney is not required of either party. (Section 741.30(1)(f) F.S.) Go to the Clerk of the Court's Office in your county courthouse.

Filing for an Injunction for Protection can be accomplished at the following location:

**West Pasco Judicial Center  
Sixth Judicial Circuit of Florida  
Civil Section. 1<sup>st</sup> Floor  
7530 Little Road  
New Port Richey, FL 34654  
(727) 847-8128**

**HOW TO FILE AN INJUNCTION FOR PROTECTION** – Appear in person at the above location. Bring with you the following:

- Specific dates of abuse or threats of abuse.
- Specific locations where abuse or threats occurred.
- Information about where the abuser can be located.
- Information on the abuser such as photos or identification.
- Papers or reports relating to your case.
- Mailing address of a friend, relative or other if you do not wish the respondent to know your current location.
- Address you want respondent (abuser) to be barred from.

Tell the clerk that you are interested in filing a petition for injunction for protection against domestic violence, repeat violence, dating violence, sexual violence, or stalking. By filling out these forms, you will be explaining to the judge exactly what type of protection you need and from whom you need protection.

After you have completed the paperwork, the court may determine that danger of domestic violence exists. The court may order a temporary injunction. Then a full hearing is held to consider your safety and the safety of your children.

The abuser must be served with the injunction before it becomes effective. The injunction will tell the abuser what the judge requires and when to return to court for a hearing. This hearing will be within 15 days unless the abuser cannot be served.

You are able to request notification of service of the injunction and receive notice automatically within 12 hours after the injunction is served.

It is important for you to attend the hearing so that you can make sure the judge understands exactly what help you need and why. **If you do not attend, usually the judge will end the injunction.**

After the hearing, a final injunction may be granted. The final injunction is valid until dissolved or amended by the court.

You will receive a copy of the injunction. **Keep it with you at all times.** There are no filing fees for Injunction for Protection from Domestic Violence.

### **What do I do if the abuser violates the injunction?**

When the respondent refuses to leave the dwelling, returns to the dwelling, commits any act of violence against the petitioner (you), or causes the petitioner to be in fear because of acts or threats, the respondent has violated the injunction which is a first degree misdemeanor.

If the respondent violates the injunction, contact the police right away. The abuser may be arrested. If the abuser is arrested, they will be held until the court determines bail.

The judge will consider your safety and the safety of your children. You may go to court if you wish. The court may order penalties as allowed by law.

If the injunction has been violated, report the violation to the Clerk of the Circuit Court only if law enforcement did not make an arrest, issue an arrest warrant or issue a notice to appear because there is no criminal violation. Report the violation to the Clerk of the Circuit Court in the county where the violation occurred and complete an affidavit in support of the violation. The judge will determine what action should be taken for your safety and the safety of your children.

Under the provisions of Section 741.315(2), Florida Statutes, if you have an out of state court order for protection against domestic violence, federal and state law provide that law enforcement recognize and act on the order as if issued by a Florida court, as long as the issuing court gave the accused the opportunity for a hearing before issuing the order. This includes orders issued by courts from the District of Columbia, Indian tribes, commonwealth territories, or possessions of the United States.

**ADDRESS CONFIDENTIALITY PROGRAM** – The participants of this program will be provided with a substitute address designated by the Attorney General, thereby keeping their actual location confidential in order to prevent their abusers from finding them. This program is available through the Florida Attorney General's Office. For more information call (850) 414-3300.

**RELOCATION ASSISTANCE** – Relocation assistance may be available for eligible victims of domestic violence or sexual violence seeking to escape/relocate. This application must be submitted by the local domestic violence center, call either THE SALVATION ARMY at (727) 856-5797 or SUNRISE at (352) 521-3120.

### **A safety plan can be lifesaving:**

- Put aside money, clothes, and important documents in a secret location for when you are ready to leave.
- Tell a neighbor if they hear a disturbance at your home, to call police.

- Make a code word to use with your children, family, friends, when you need the police.
- All cell phones have the capability of calling 911 even if they do not have a service provider. Keep an old cell phone charged in case of an emergency to call 911.
- Have an escape route with your children in the event your abuser comes back to the home.
- Contact your local Domestic Violence Center for additional safety planning and shelter if needed
- Stay in contact with the state attorney, victims advocate, law enforcement and domestic violence advocates and relay any concerns that you may have.

## NEW PORT RICHEY POLICE DEPARTMENT VICTIM SERVICES

For many people, being a victim or witness to a crime is their first experience with the Criminal Justice System. The New Port Richey Police Departments Victim Advocate Program is committed to helping individuals and their families in crisis.

In addition to providing general assistance, our specially trained Victim Advocate is on staff to assist with the following:

- **Filing a claim with the Office of the Attorney General, Bureau of Victims Compensation**
- **Crisis intervention**
- **Counseling and resources**
- **Court support and advocacy**
- **Referrals for safe shelter, emergency food and medical attention**
- **Information and support regarding the process of obtaining an order of protection (Domestic Violence, Dating Violence, Repeat Violence, Sexual Violence, and Stalking)**

If you have any questions or feel we can be of assistance to you or a member of your family, please contact the New Port Richey Police Department Victim Advocate during business hours on Monday through Friday at (727) 232-8948.

**IF YOU ARE THE VICTIM OF DATING VIOLENCE**, you may ask the state attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an injunction for protection from dating violence which may include, but need not be limited to, provisions that restrain the abuser from further acts of abuse; direct the abuser to leave your household; and prevent the abuser from entering your residence, school, business, or place of employment.

[www.vinelink.com](http://www.vinelink.com)

*VINE provides custody status and criminal case information.*

*Registration is required for this service*

## REFERRAL NUMBERS

United Way Services Directory .....	Dial 211
Land O Lakes Jail Booking .....	(813) 235-6070
Juvenile Detention Center .....	(352) 588-5900
State Attorney's Office .....	(727) 847-8158
Food Stamp Program (ACCESS).....	(866) 762-2237

### Children & Seniors:

Area Agency on Aging .....	(800) 963-5337
Florida Abuse Hotline (Elderly and Children) .....	(800) 962-2873
Pasco Guardian Ad Litem .....	(727) 834-3493
National Child Abuse Hotline (24 hr helpline) .....	(800) 422-4453
National Runaway Safe Line.....	(800) 786-2929
National Teen Dating Abuse Hotline .....	(866) 331-9474
Pasco Kids First.....	(727) 845-8080
Youth and Family Alternatives .....	(727) 835-4166

### Domestic/Sexual Violence Resources:

Salvation Army (shelter) .....	(727) 856-5797
Sunrise (shelter) .....	(352) 521-3120
Sexual Abuse Forensic Exam .....	(727) 845-8080
Domestic Violence Hotline (Florida) .....	(800) 500-1119
Domestic Violence Hotline (National) .....	(800) 799-7233
Florida Council Against Sexual Violence .....	1-888-956-7273
FDLE – Sex Offender/Sexual Predator Hotline .....	1-888-357-7332
National Sexual Assault Hotline .....	1-800-656-4673

### Legal Assistance/Information:

Bay Area Legal Services .....	(813) 232-1343
Florida Bar Lawyer Referral Service.....	1-800-342-8060

### Mental Health:

BayCare Behavioral Health Services .....	(866) 762-1743
National Alliance of Mental Illness .....	1-800-950-6264
Suicide Prevention Lifeline.....	(800) 273-8255

### Victim Assistance/Advocacy:

New Port Richey Police Department Victim Advocate.....	(727) 232-8948
Florida Commission on Offender Review – Victim Services Office.....	(850) 487-3259
National Organization for Victim Assistance .....	1-800-879-6682
Florida Dept of Corrections Victim Services .....	(850) 488-9166
Florida Victim Compensation .....	(800) 226-6667
VINE.....	1-877-846-3435