

The Victim's Assistance and Survivor Protection Act

For the most up to date information about the Victim's Assistance and Survivor Protection Act (VASPA), please direct questions to the Administrative Office of the Courts, Family Practice Division at 609-815-2900, ext. 55350.

WHAT IS THE VICTIM'S ASSISTANCE AND SURVIVOR PROTECTION ACT?

The Victim's Assistance and Survivor Protection Act (VASPA) expands opportunities for survivors of sexual assault and victims of stalking and cyber harassment to apply for a protective order against the person who caused them harm, without reporting to law enforcement or filing criminal charges.

In effect as of 2024, VASPA is an update and expansion to the Sexual Assault Survivor Protection Act (SASPA) of 2016, which originally only included protections for survivors of sexual assault.

Most sexual violence survivors [know the person who caused them harm](#). Before SASPA went into effect in May 2016, protective orders weren't available for sexual assault survivors unless there was a criminal charge or conviction. Similarly, victims of stalking and cyber harassment, regardless of their relationship status with the person who caused harm, may not want to proceed with a criminal charge or conviction.

While retaining the substance of SASPA, VASPA expands access and now allows victims of stalking and cyber harassment not covered by domestic violence statutes the opportunity to seek protective orders.

WHAT IS A PROTECTIVE ORDER UNDER VASPA, AND WHAT DOES IT DO?

A civil [protective order](#) issued under VASPA is a court order that aims to protect survivors of sexual violence from the person who caused them harm. A protective order prohibits the person who caused harm from having any further contact with the survivor.

A protective order can be a way to shield survivors from:

- Further acts of sexual violence.

- Seeing the person who caused harm (e.g., the person can be prevented from entering specific places that the survivor or their household members regularly frequent, such as work, home, or school).
- Future contact with the person who caused harm (whether oral, written, or electronic communication, either directly from the perpetrator or from the perpetrator via a third party).
- Stalking behaviors (including a pattern of repeated and unwanted attention, harassment, or contact).
- Harassment, including online harassment, of the survivor. (If requested, it can include the survivor's family members, friends, and their employer or employees as protected parties in the protective order.)
- Any other relief that the court deems appropriate.

WHO CAN APPLY FOR A PROTECTIVE ORDER UNDER VASPA?

Any survivor of a sexual offense (as described below), regardless of whether they knew the person who caused harm prior to the offense, can apply for this protective order. Sexual offenses covered under VASPA include any nonconsensual sexual contact, sexual penetration, lewdness, and any attempt of such behavior.

Nonconsensual contact means that the survivor did not agree or give permission for the person who caused harm to sexually touch, penetrate, or expose themselves.

Victims of stalking and cyber harassment can also apply for protective orders under VASPA. Click [here](#) for more information about what is defined as stalking and cyber harassment under VASPA.

The parent or guardian of a survivor can apply on behalf of the survivor if the survivor is under 18 or has a developmental disability.

Offenses committed by unemancipated minors are not covered under VASPA. In other words, if the person who caused harm is a minor, a VASPA protective order generally cannot be granted. Instead, survivors may decide to proceed using the existing Code of Juvenile Justice.

Survivors of sexual offenses who qualify for a domestic violence restraining order cannot apply for a protective order under VASPA, but they may seek a restraining order under the Prevention of Domestic Violence Act (PDVA). This typically would be the case if the person causing the survivor sexual harm, harassing, stalking, etc. is the survivor's former or current spouse, dating partner, household member, etc. For more information about domestic violence restraining orders, click [here](#).

Survivors can apply for a civil protective order regardless of whether they choose to report the person who caused them harm to law enforcement.

WHY MAY A SURVIVOR CHOOSE TO OBTAIN A PROTECTIVE ORDER?

Every survivor is different and will want a different outcome in the aftermath of an act or repeated acts of violence. For some survivors, a protective order may protect them by prohibiting contact from the person who caused them harm, without needing to report the offense to law enforcement. Other survivors may desire to both apply for a protective order and pursue criminal charges against the person who caused them harm. Everyone's situation is unique, and requesting a protective order is a decision only the survivor can make.

Trained advocates at New Jersey's local sexual violence programs can provide resources, referrals, and support with navigating the legal system. You can find a list of programs across New Jersey [here](#).

HOW DO SURVIVORS APPLY FOR A PROTECTIVE ORDER?

A survivor or parent/guardian of a survivor seeking a protective order under VASPA may file in family court, Monday through Friday, from 8:30 a.m. to 3:30 p.m.

Survivors can choose to file for a protective order in the county in which they reside, in the county where the sexual offense occurred, or in the county where the person who caused harm resides. Survivors can also access an application online.

A list of family courthouses by county is available [here](#).

Obtaining a protective order is a two-step process:

- The survivor must first apply for an initial or **temporary protective order (TPO)** in family court. A TPO is the initial type of protective order that protects the survivor from the person who caused them harm and remains in place until the second step of the process.
- The second step requires a hearing, generally held within 10 days after the TPO has been issued, to determine whether a **Final Protective Order (FPO)** can be permanently granted. FPOs never expire and are valid anywhere in New Jersey. The order is enforceable throughout New Jersey and [can be enforced in all 50 states](#), Indian tribal lands, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, American Samoa, the Northern Mariana Islands, and Guam.

WHAT CAN A SURVIVOR EXPECT DURING THE TPO APPLICATION PROCESS?

After deciding to seek a protective order, survivors will complete a short application in family court. There are no court fees associated with receiving a

TPO. The application requires the survivor to provide court staff with their name and address along with the name and address of the person who caused them harm, but the court will not require the survivor's address to appear in writing on the temporary order of protection.

Everything stated in the application can be brought up in the protective order hearing(s); anything not included in the application cannot be referenced during testimony. The details of the application should be specific and comprehensively state abusive or intimidating behaviors (e.g., the actual language the perpetrator used).

EXAMPLE: Rather than saying, “He would do inappropriate things,” include details: “On three different occasions, when walking past me, he grabbed my buttocks. It made me feel uncomfortable and scared to go to work.”

Once the survivor has completed the application and before signing it, it is important to ensure that it is reflective of everything they want to share regarding the offenses and acts of violence. The survivor will then provide oral testimony to a hearing officer or a judge regarding the offenses committed against them. When necessary, the court may **immediately grant** the TPO to protect the safety and well-being of the survivor. If the TPO is granted, the hearing officer or judge will outline the behaviors that the person who caused harm will be prohibited from committing.

Initial TPO hearings do not require the defendant (the person who caused harm and the person the TPO is against) to be present. The TPO is not in effect until the defendant is served. During the filing, it is critical to provide as much information about the defendant's whereabouts as possible so law enforcement can serve the defendant quickly after the TPO is granted. For this reason, a protective order generally cannot be sought against a defendant whose identity is not known.

Be prepared. The TPO application process might take several hours, but if the TPO is granted, the survivor will leave with their TPO the same day, along with the date for the final hearing. The TPO remains in effect until the FPO hearing, which is typically held within 10 days following the issuance of the TPO.

WHAT CAN A SURVIVOR EXPECT AFTER OBTAINING THE TPO?

The court will forward the TPO to law enforcement so they can personally serve the TPO to the person who caused harm and outline the behaviors they are prohibited from committing. Law enforcement will inform the person who caused harm that

any violation is a criminal offense and may lead to arrest. If the person who caused harm violates the TPO, the survivor may contact law enforcement to have the order enforced. While the TPO is a civil order, it is important to know that reporting any violations might lead to an arrest and criminal charges.

If a survivor wishes to, they can provide a copy of the TPO (or FPO) to the specific places that were referenced in the protective order (e.g., work, home, school).

Create a safety plan: While a protective order will discourage the person who caused harm from committing any further sexual offenses, it is important to take other precautions to ensure the survivor's safety.

Safety planning involves thinking of different ways to stay safe, considering the survivor's options, and making decisions regarding the survivor's next steps. Seeking support from one's trusted family members and friends, changing one's day-to-day travel routine, and not posting one's location information to social media are examples of safety planning.

If the survivor feels that they are in immediate danger, they should contact local law enforcement.

Survivors can contact their [local sexual violence program](#) for comprehensive safety planning, options to change residences, additional information to prepare for their FPO hearing, resources, counseling, court accompaniment, and emotional support.

SURVIVORS ARE ENTITLED TO KNOW ABOUT THEIR LEGAL RIGHTS AND OPTIONS

While a lawyer is not necessary to seek a TPO or FPO, it may be helpful to speak to one or to [contact an advocate](#) from a sexual violence program to obtain free information on legal rights and referrals and obtaining compensation from the [Victims of Crime Compensation Office](#). While an advocate cannot provide legal advice, they can guide the survivor through the TPO or FPO process and offer helpful resources for other needs they may have

It is helpful for the survivor to gather any evidence of the sexual offense(s), such as photos, text messages, and screenshots, in preparation for the FPO hearing. It is also important for the survivor to request any direct witnesses be present to provide testimony on the date of the FPO hearing. The direct witness should be able to provide first-person accounts of the defendant's inappropriate behavior and should be available to testify to that at the FPO hearing. Remember, only conduct included on the TPO application may be introduced to the court during the hearing. If

additional information is recalled prior to the hearing, contact the family court division and inquire about editing the initial application.

Protective order hearings can be stressful. Every person has the right to practice self-care and make decisions that are in their best interest. Trained advocates at [New Jersey's local sexual violence programs](#) can offer comprehensive safety planning, legal rights and options, shelter options, resources, counseling, court accompaniment, and emotional support.

If needed, the Judiciary of New Jersey provides court interpreting services.

Survivors can seek a civil protective order even if the assault was not reported to law enforcement.

WHAT CAN A SURVIVOR EXPECT AT THE FPO HEARING?

The hearing for the FPO also takes place in family court, in front of a judge, and within 10 days after the TPO hearing. The defendant is expected to appear for this hearing but should not have any contact with the survivor. If the defendant attempts to speak with the survivor, the survivor can immediately report the incident to a sheriff's officer stationed in the court. If reported, this may be considered a violation and may lead to an arrest or criminal charges.

Some considerations for preparing for the FPO hearing include:

- If translation services are needed, contact the family court several days in advance of the final hearing so they can assign a court-approved interpreter. Learn more about how to request this service [here](#).
- Speaking to an advocate and obtaining legal advice from your [local legal services program](#) can be helpful in preparing for this process.
- A survivor does not need to obtain an attorney for the FPO hearing, but if they opt to hire a private attorney, they may be eligible for compensation for attorney fees through the Victims of Crime Compensation Office. To obtain information on eligibility for compensation, please visit the [Victims of Crime Compensation Office website](#) or call 877-658-2221.

On the date of the FPO hearing, after arriving at family court, the survivor should check in with the sheriff's officer of the courtroom assigned to the hearing. The officer might ask if the survivor is ready to proceed with the hearing. It is important to know that both the survivor (plaintiff) and the person who caused harm (defendant) have the right to request an adjournment (postponement) at the initial FPO hearing if they need additional time to seek legal advice to bring in evidence or so that their witness can appear. The survivor should inform the sheriff's officer stationed in the court when they check in if they plan on requesting an adjournment. If the adjournment is granted, all the protections of the TPO remain in place.

During the FPO hearing, the judge will provide instructions on how the hearing will proceed and explain the two legal elements they consider for granting the FPO:

- The sexual offense, act(s) of stalking, or cyber harassment committed, and
- The possibility of future risk to the survivor's safety or well-being.

The judge will explain that the survivor will need to prove these elements beyond a "preponderance of evidence." A preponderance of evidence standard means that the judge must find that the offenses were more likely than not to have occurred. Typically, this is an easier burden of proof to meet than the "beyond a reasonable doubt" standard in criminal cases.

The survivor will testify first and will be expected to testify with the person who caused harm present. If the survivor has an attorney, the attorney will ask the survivor questions. If applicable, evidence and witnesses should be presented during the survivor's testimony. After the survivor testifies, the defendant will have the opportunity to cross-examine or ask questions of the survivor. The defendant is not permitted to address or speak to the survivor, so they must direct questions to the judge. The judge will then ask the survivor the questions directly. If the defendant has an attorney, the attorney may ask the survivor questions directly.

The judge may ask some difficult questions, such as who the survivor reported the assault to or why the survivor didn't choose to report the assault to law enforcement. Remember, it is not necessary to have reported the incident to law enforcement to be eligible for a protective order.

The defendant will then testify. If the survivor has an attorney, they will have the opportunity to cross-examine or ask the person who caused harm questions. If the survivor does not have an attorney, the survivor will ask the judge the questions, and then the judge will address the questions to the person who caused harm.

The judge then makes a decision on whether to grant the FPO and will provide the reasoning behind the decision.

WHAT HAPPENS IF A FINAL PROTECTIVE ORDER IS GRANTED?

The judge will specifically outline the details of the FPO. This could include who the defendant is barred from contacting and behaviors that are prohibited.

The FPO is **effective immediately** after the hearing. If the person who caused harm is absent from the hearing, the judge may choose to issue the order without them present.

Any violation of the FPO is a **criminal act** and might result in criminal charges and an arrest if reported to law enforcement.

Please note: If a survivor's address changes, they will need to revise their protective order (TPO or FPO) with the court to update their address.

WHAT HAPPENS IF A FINAL PROTECTIVE ORDER IS NOT GRANTED?

If the final order is not granted, the TPO along with all of the protections are **dismissed without prejudice**. This means that if the person who caused harm commits a new act of sexual violence against the survivor, the survivor has a right to file a new TPO; a past dismissal of a protective order **will not be disqualifying in seeking one in the future**.

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Source: NJ Coalition Against Sexual Assault "Victims Assistance and Survivor Protection Act" <https://njcasa.org/find-help/vaspa/>