

THE UNITED STATES OF AMERICA
THE DENVER POST OFFICE AND FEDERAL COURT HOUSE
ERECTED IN THE YEAR NINETEEN HUNDRED AND TEN

LEGAL

VOLUME 8

Definitions

Section 13A-6-60

(1) **FORCIBLE COMPULSION.** Use or threatened use, whether express or implied, of physical force, violence, confinement, restraint, physical injury, or death to the threatened person or to another person. Factors to be considered in determining an implied threat include, but are not limited to, the respective ages and sizes of the victim and the accused; the respective mental and physical conditions of the victim and the accused; the atmosphere and physical setting in which the incident was alleged to have taken place; the extent to which the accused may have been in a position of authority, domination, or custodial control over the victim; or whether the victim was under duress. Forcible compulsion does not require proof of resistance by the victim.

(2) **INCAPACITATED.** The term includes any of the following:

a. A person who suffers from a mental or developmental disease or disability which renders the person incapable of appraising the nature of his or her conduct.

b. A person is temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or intoxicating substance and the condition was known or should have been reasonably known to the offender.

c. A person who is unable to give consent or who is unable to communicate an unwillingness to an act because the person is unconscious, asleep, or is otherwise physically limited or unable to communicate.

(3) **SEXUAL CONTACT.** Any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party. The term does not require skin to skin contact.

(4) **SEXUAL INTERCOURSE.** Such term has its ordinary meaning and occurs upon any penetration, however slight; emission is not required.

(5) **SODOMY.** Any sexual act involving the genitals of one person and the mouth or anus of another person.

Section 13A-6-70 **Lack of Consent.**

- (a) Unless otherwise stated, an element of every offense defined in this article is that the sexual act was committed without the consent of the victim.

- (b) Lack of consent results from either of the following:
 - (1) Forcible compulsion
 - (2) Being incapable of consent.

- (c) A person is deemed incapable of consent if he or she is either:
 - (1) Less than 16
 - (2) Incapacitated

- (d) Consent to engage in sexual intercourse, sodomy, sexual acts, or sexual contact may be communicated by words or actions. The existence of a current or previous marital, dating, social, or sexual relationship with the defendant is not sufficient to constitute consent. Evidence that the victim suggested, requested, or otherwise communicated to the defendant that the defendant use a condom or other birth control device or sexually transmitted disease protection, without additional evidence of consent, is not sufficient to constitute consent.

Section 13A-6-61 **Rape in the first degree.**

- (a) A person commits the crime of rape in the first degree if he or she does any of the following:
- (1) Engages in sexual intercourse with another person by forcible compulsion.
 - (2) Engages in sexual intercourse with another person who is incapable of consent by reason of being incapacitated.
 - (3) Being 16 years or older, engages in sexual intercourse with another person who is less than 12 years old.
- (b) Rape in the first degree is a Class A felony.

Section 13A-6-62 **Rape in the second degree.**

- (a) A person commits the crime of rape in the second degree if, being 16 years old or older, he or she engages in sexual intercourse with another person who is 12 years old or older, but less than 16 years old; provided, however, the actor is at least two years older than the other person.
- (b) Rape in the second degree is a Class B felony.

Sodomy

Section 13A-6-63 Sodomy in the first degree.

- (a) A person commits the crime of sodomy in the first degree if he or she does any of the following:
 - (1) Engages in sodomy with another person by forcible compulsion.
 - (2) Engages in sodomy with another person who is incapable of consent by reason of being incapacitated.
 - (3) Being 16 years old or older, engages in sodomy with a person who is less than 12 years old.
- (b) Sodomy in the first degree is a Class A felony.

Section 13A-6-64 Sodomy in the second degree.

- (a) A person commits the crime of sodomy in the second degree if, being 16 years old or older, he or she engages in sodomy with another person 12 years old or older, but less than 16 years old; provided, however, the actor is at least two years older than the other person.
- (b) Sodomy in the second degree is a Class B felony.

Sexual Misconduct

Section 13A-6-65 Sexual misconduct.

- (a) A person commits the crime of sexual misconduct if he or she does any of the following:
 - (1) Engages in sexual intercourse with another person without his or her consent, under circumstances other than those covered by Sections 13A-6-61 and 13A-6-62; or with consent where consent was obtained by the use of any fraud or artifice.
 - (2) Engages in sodomy with another person, without his or her consent, under circumstances other than those covered by Sections 13A-6-63 and 13A-6-64; or with consent where consent was obtained by the use of fraud or artifice.
 - (3) Engages in sexual contact with another person without his or her consent under circumstances other than those under Sections 13A-6-66, 13A-6-67, and 13A-6-69.1; or with consent where consent was obtained by the use of fraud or artifice.
- (b) Sexual misconduct is a Class A misdemeanor.

Sexual Torture

Section 13A-6-65.1 **Sexual torture.**

- (a) A person commits the crime of sexual torture if he or she does any of the following:
 - (1) Penetrates the vagina, anus, or mouth of another person with an inanimate object, by forcible compulsion, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.
 - (2) Penetrates the vagina, anus, or mouth of a person who is incapable of consent by reason of being incapacitated, with an inanimate object, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.
 - (3) By inflicting physical injury, including, but not limited to, burning, crushing, wounding, mutilating, or assaulting the sex organs or intimate parts of another person, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.
- (b) The crime of sexual torture is a Class A felony.

Sexual Abuse

Section 13A-6-66 **Sexual abuse in the first degree.**

- (a) A person commits the crime of sexual abuse in the first degree if he or she does either of the following:
 - (1) Subjects another person to sexual contact by forcible compulsion.
 - (2) Subjects another person to sexual contact who is incapable of consent by reason of being incapacitated.
- (b) Sexual abuse in the first degree is a Class C felony.

Section 13A-6-67 **Sexual abuse in the second degree.**

- (a) A person commits the crime of sexual abuse in the second degree if he or she does either of the following:
- (1) Subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old.
 - (2) Being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.
- (b) Sexual abuse in the second degree is a Class A misdemeanor, except as provided in subsection (c), or if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony.
- (c) If a person violates subdivision (a)(2), and he or she is at least 15 years older than the victim, the offense shall be a Class C felony.

Human Trafficking

Section 13A-6-152 **Human trafficking in the first degree.**

- (a) A person commits the crime of human trafficking in the first degree if he or she does either of the following:
- (1) He or she knowingly subjects another person to labor servitude or sexual servitude.
 - (2) He or she knowingly obtains, recruits, entices, solicits, induces, threatens, isolates, harbors, holds, restrains, transports, provides, or maintains any minor for the purpose of causing a minor to engage in sexual servitude.
 - (3) He or she knowingly gives monetary consideration or any other thing of value to engage in any sexual conduct with a minor or an individual he or she believes to be a minor.
- (b) For purposes of this section, it is not required that the defendant have knowledge of a minor victim's age, nor is reasonable mistake of age a defense to liability under this section.
- (c) A corporation, or any other legal entity other than an individual, may be prosecuted for human trafficking in the first degree for an act or omission only if an agent of the corporation or entity performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation or entity, and the commission of the crime was either authorized, requested, commanded, performed, or within the scope of the person's employment on behalf of the corporation or entity or constituted a pattern of conduct that an agent of the corporation or entity knew or should have known was occurring.
- (d) Any person who obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section shall be guilty of a Class A felony.
- (e) Human trafficking in the first degree is a Class A felony.

Section 13A-6-153 **Human trafficking in the second degree.**

(a) A person commits the crime of human trafficking in the second degree if:

(1) A person knowingly benefits, financially or by receiving anything of value, from participation in a venture or engagement for the purpose of sexual servitude or labor servitude.

(2) A person knowingly recruits, entices, solicits, induces, harbors, transports, holds, restrains, provides, maintains, subjects, or obtains by any means another person for the purpose of labor servitude or sexual servitude.

(3) A corporation, or any other legal entity other than an individual, may be prosecuted for human trafficking in the second degree for an act or omission only if an agent of the corporation or entity performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation or entity, and the commission of the crime was either authorized, requested, commanded, performed, or within the scope of the person's employment on behalf of the corporation or entity or constituted a pattern of conduct that an agent of the corporation or entity knew or should have known was occurring.

(4) Any person who obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section shall be guilty of a Class B felony.

(b) Human trafficking in the second degree is a Class B felony.

Other Related Crimes

Section 13A-6-68 **Indecent exposure.**

(a) A person commits the crime of indecent exposure if, with intent to arouse or gratify sexual desire of himself or herself, or of any person other than his or her spouse, he or she exposes his or her genitals under circumstances in which he or she knows the conduct is likely to cause affront or alarm.

(b) Indecent exposure is a Class A misdemeanor except a third or subsequent conviction shall be a Class C felony.

Section 13A-6-241 **Sexual extortion**

(a) A person commits the crime of sexual extortion if he or she knowingly causes or attempts to cause another person to engage in sexual intercourse, sodomy, sexual contact, or in a sexual act or to produce any photograph, digital image, video, film, or other recording of any person, whether recognizable or not, engaged in any act of sadomasochistic abuse, sexual intercourse, sodomy, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct by communicating any threat to injure the body, property, or reputation of any person.

(b) Sexual extortion is a Class B felony.

Section 13A-6-240 **Distributing a private image with intent to harass, threaten, coerce, or intimidate the person depicted**

(a) A person commits the crime of distributing a private image if he or she knowingly posts, emails, texts, transmits, or otherwise distributes a private image with the intent to harass, threaten, coerce, or intimidate the person depicted when the depicted person has not consented to the transmission and the depicted person had a reasonable expectation of privacy against transmission of the private image.

(b) For purposes of this section, private image means a photograph, digital image, video, film, or other recording of a person who is identifiable from the recording itself or from the circumstances of its transmission and who is engaged in any act of sadomasochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, as defined in Section 13A-12-190, genital nudity, or other sexual conduct. The term includes a recording that has been edited, altered, or otherwise manipulated from its original form.

(c)(1) For purposes of this section, a reasonable expectation of privacy includes, but is not limited to, either of the following circumstances:

(a) The person depicted in the private image created it or consented to its creation believing that it would remain confidential.

(b) The sexual conduct depicted in the image was involuntary.

(2) There is no reasonable expectation of privacy against the transmission of a private image made voluntarily in a public or commercial setting.

(d) It is a defense to distributing a private image if the distribution of the private image was made in the public interest, including, but not limited to, the reporting of unlawful conduct; the lawful and common practices of law enforcement, legal proceedings, or medical treatment; or a bona fide attempt to prevent further distribution of the private image.

(e) A violation of this section is a Class A misdemeanor. A subsequent adjudication or conviction under this section is a Class C felony.

Section 13A-6-242 **Assault with bodily fluids**

(a) A person commits the crime of assault with bodily fluids if he or she knowingly causes or attempts to cause another person to come into contact with a bodily fluid unless the other person consented to the contact or the contact was necessary to provide medical care.

(b) For purposes of this section, a bodily fluid is blood, saliva, seminal fluid, mucous fluid, urine, or feces.

(c) Assault with bodily fluids is a Class A misdemeanor; provided, however, a violation of this section is a Class C felony if the person commits the crime of assault with bodily fluids knowing that he or she has a communicable disease.

Stalking

Section 13A-6-90 **Stalking**

(a) A person who intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm is guilty of the crime of stalking in the first degree.

(b) The crime of stalking in the first degree is a Class C felony.

Section 13A-6-90.1 **Stalking in the second degree**

(a) A person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct is guilty of the crime of stalking in the second degree.

(b) The crime of stalking in the second degree is a Class B misdemeanor.

Section 13A-6-91 **Aggravated Stalking**

(a) A person who violates the provisions of Section 13A-6-90(a) and whose conduct in doing so also violates any court order or injunction is guilty of the crime of aggravated stalking in the first degree.

(b) The crime of aggravated stalking in the first degree is a Class B felony.

Section 13A-6-91.1 **Aggravated Stalking in the second degree**

(a) A person who violates the provisions of Section 13A-6-90.1 and whose conduct in doing so also violates any court order or injunction is guilty of the crime of aggravated stalking in the second degree.

(b) The crime of aggravated stalking in the second degree is a Class C felony.

Section 13A-6-92 **Definitions**

As used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise.

- (a) COURSE OF CONDUCT. A pattern of conduct composed of a series of acts over a period of time which evidences a continuity of purpose.
- (b) CREDIBLE THREAT. A threat, expressed or implied, made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to fear for his or her safety or the safety of a family member and to cause reasonable mental anxiety, anguish, or fear.
- (c) HARASSES. Engages in an intentional course of conduct directed at a specified person which alarms or annoys that person, or interferes with the freedom of movement of that person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress. Constitutionally protected conduct is not included within the definition of this term.

Section 13A-11-8 Harassment or harassing communications.

- (a)(1) HARASSMENT.- A person commits the crime of harassment if, with intent to harass, annoy, or alarm another person, he or she either:
 - (a) Strikes, shoves, kicks, or otherwise touches a person or subjects him or her to physical contact.
 - (b) Directs abusive or obscene language or makes an obscene gesture towards another person.
 - (2) For purposes of this section, harassment shall include a threat, verbal or nonverbal, made with the intent to carry out the threat, that would cause a reasonable person who is the target of the threat to fear for his or her safety.
 - (3) Harassment is a Class C misdemeanor.
- (b)(1) HARASSING COMMUNICATIONS. - A person commits the crime of harassing communications if, with intent to harass or alarm another person, he or she does any of the following:
 - (a) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail, or any other form of written or electronic communication, in a manner likely to harass or cause alarm.
 - (b) Makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication.
 - (c) Telephones another person and addresses to or about such other person any lewd or obscene words or language.

Nothing in this section shall apply to legitimate business telephone communications.

- (2) Harassing communications is a Class C misdemeanor.

What You Can Do

Suggest the client take the following steps:

- Assess the danger of the situation and develop a safety plan on how to deal with the stalker and his/her threats.
- Discuss what exactly the threat might be, and what possible responses the client has, and what the stalker's response to the client's action might be. Do not minimize the level of danger or concern. Always err on the side of caution.
- Call 911, or the local police station, and file a report. Get the officer's name, badge number, and report number. Call the police every time anything happens. Often stalkers are convicted of crimes other than stalking (trespassing, stealing, etc.)
- Keep a journal. Record everything the stalker says, does, or sends, along with the dates, time, places, etc. Record or screenshot Caller ID.
- Alert people you know. Tell people you are in danger and need an escort as much as possible.
- Toll free help and referrals are available for stalking victims at 1-800-FYI-CALL Monday through Friday 8:30 to 5:30 EST, from the National Crime Victim's Center.

Sexual Harassment

Sexual harassment is unwanted sexual or gender-based behavior that occurs when one person has formal or informal power over the other person.

- There are three elements to sexual harassment:
- The behavior is unwanted or unwelcome.
- The behavior is sexual or related to the gender of the person.
- The behavior occurs in the context of a relationship where one person has more formal power than the other person does (such as a supervisor over an employee or a faculty member over a student does) or more informal power (such as one peer over another).

Two Types of Sexual Harassment

Quid pro quo is when the harasser requires sexual favors of the victim in return for some action by the harasser, or harasser retaliates against victim for refusing sexual favors (e.g. sex for a promotion or passing grade).

Hostile environment is when the victim is subjected to unwelcome repeated sexual comments, innuendoes or touching, which alter conditions or interfere with school or employment performance or access to opportunities provided by the institution. Conduct is gender-based and creates an intimidating or offensive place for employees to work or students to go to school. To establish a hostile environment, it usually requires a pattern of this sort of behavior, but sometimes one incident is enough, if severe or outrageous.

Once someone has been informed that behaviors are perceived as hostile (whether or not they were intended to be) and those behaviors are continued, then the offender and possibly other parties aware of the behavior could be charged with sexual harassment.

- Sexual harassment may include many behaviors, including but not limited to:
- Unwanted pressure for sexual favors
- Unwanted pressure for dates
- Sexual teasing or remarks
- Unwanted touching
- Letters, phone calls, or materials of a sexual nature
- Sexual comments about a person's looks
- Intimidation by cornering or pinching
- Sexual comments or innuendoes
- An implicit or explicit threat that the victim must comply in order to remain employed, obtain a promotion, etc.

Laws prohibiting Sexual Harassment

State, federal, and local laws prohibit sexual harassment in the workplace. Title VII of the Federal Civil Rights Act and local fair employment ordinances contain similar bans on sexual harassment. Every employer must provide a workplace free of sexual harassment, which includes intolerance of a hostile work environment.

Important Note Regarding Schools

The U.S. Supreme Court has ruled that school districts may be sued in federal court when they know of flagrant sexual harassment between students but do little or nothing about it. To be liable, a school board must have “actual knowledge” of student-on-student harassment and be “deliberately indifferent” to it. In addition, the harassment must be “so severe, pervasive, and objectively offensive that it denies its victims the equal access to education” guaranteed under Title IX of the Education Act of 1972. This is the first ruling that specifies that student-to-student harassment is included under Title IX.

What You Can Do

Suggest the client take the following steps:

- Say NO to the harasser, verbally and in writing.
- Tell the harasser that repetition of the behavior will be reported to a supervisor.
- Follow through on your threat to report the behavior if it is repeated.
- Keep a diary or log of the harassing behavior and any letters or calls you’ve made because of the harassment
- Learn about your employer’s or school’s sexual harassment policy
- Get support from family, friends and the rape crisis program.

Rape Shield Statute

Rule 412

Admissibility of evidence relating to past sexual behavior of complaining witness in prosecutions for criminal sexual conduct.

(a) Evidence Generally Inadmissible. The following evidence is not admissible in any prosecution for criminal sexual conduct except as provided in sections (b) and (c):

- (1) evidence offered to prove that any complaining witness engaged in other sexual behavior.
- (2) evidence offered to prove any complaining witness's sexual predisposition.

(b) Exceptions. The following evidence is admissible, if otherwise admissible under these rules:

- (1) evidence of specific instances of sexual behavior by the complaining witness offered to prove that a person other than the accused was the source of semen, injury, or other physical evidence;
- (2) evidence of specific instances of sexual behavior by the complaining witness with respect to the person accused of the sexual misconduct offered by the accused to prove consent or by the prosecution; and
- (3) evidence the exclusion of which would violate the constitutional rights of the defendant.

(c) Procedure to Determine Admissibility.

- (1) MOTION. If a party intends to offer evidence under Rule 412(b), the party must:
 - (A) file a motion that specifically describes the evidence and states the purpose for which it is to be offered;
 - (B) do so a reasonable time before trial unless the court, for good cause, sets a different time; and
 - (C) serve the motion on all parties.
- (2) NOTICE. Regardless of who brings the motion, the prosecution shall notify the complaining witness, or, when appropriate, the complaining witness's guardian or representative, of the motion.
- (3) HEARING. Before admitting evidence under this rule, the court must conduct an in camera hearing and give the parties a right to attend and be heard. If at the conclusion of the hearing the court finds that any of the evidence introduced at the hearing is admissible under section (b) of this rule, the court shall by order state what evidence may be introduced and in what manner the evidence may be introduced. All in camera proceedings shall be included in their entirety in the transcript and record of the trial and case;
- (4) The party may then introduce evidence pursuant to the order of the court.

(d) Definitions. As used in this rule, unless the context clearly indicates otherwise, the following words and phrases shall have the following respective meanings:

- (1) COMPLAINING WITNESS. Any person alleged to be the victim of the crime charged, the prosecution of which is subject to the provisions of this rule.
- (2) CRIMINAL SEXUAL CONDUCT. Sexual activity, including, but not limited to, rape; sodomy; sexual misconduct; sexual abuse; and assault with intent to commit, attempt to commit, solicitation to commit, or conspiracy to commit criminal sexual conduct.

Confidentiality

Section 15-23-42 Confidentiality of communications with victim counselor.

- (a) A victim, a victim counselor without the consent of the victim, or a minor or incapacitated victim without the consent of a custodial guardian or a guardian ad litem appointed upon application of either party, cannot be compelled to give testimony or to produce records concerning confidential communications for any purpose in any criminal proceeding.
- (b) A victim counselor or a victim cannot be compelled to provide testimony in any civil or criminal proceeding that would identify the name, address, location, or telephone number of a safe house, abuse shelter, or other facility that provided temporary emergency shelter to the victim of the offense or transaction that is the subject of the proceeding unless the facility is a party to the proceeding.
- (c) The confidential communication privilege of a victim counselor with respect to communications made between the counselor and the victim shall terminate upon the death of the victim.

Alabama Legislative Codes 1975-Present

Scan or click below to access the Alabama Legislative Codes.



[http://alisondb.legislature.state.al.us/alison/
codeofalabama/1975/coatoc.htm](http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/coatoc.htm)

The Advantages and Disadvantages of Reporting to Law Enforcement

☑ Perceived Advantages	☒ Perceived Disadvantages
<p>Apprehension of Perpetrator</p> <p>Reporting the assault is the first step toward arresting and convicting the rapist. Since most rapists are repeat offenders, apprehension of the rapist protects you and other potential victims.</p> <p>Regain Sense of Control</p> <p>Reporting can help you gain control over the situation and regain your sense of power. You are exercising your rights!</p> <p>Compensation</p> <p>When you report the crime, you may be eligible for crime victim's compensation for the time you may have lost from work and for the medical and any other expenses the rape has caused you.</p> <p>Seriousness of Crime</p> <p>When you report your rape, it becomes a statistic and can help let people know how serious and prevalent the crime is. It also alerts them to danger spots in the area.</p> <p>Low Cost</p> <p>Rape, like all violent crimes, is considered a crime against "the people of the state", not just you personally. Therefore, you do not have to hire a lawyer or pay to prosecute the rapist. The District Attorney will act as your attorney.</p> <p>Privacy</p> <p>The Rape Shield Law protects the victim so that her present or past lifestyle(s) or sexual experiences is less likely to be brought out in a trial.</p>	<p>Retraumatizing</p> <p>It may be hard for you to repeat your story. If the case does go to trial, you may have to relive much of the rape during the trial. But reporting it doesn't necessarily mean going to trial.</p> <p>Not in Control</p> <p>The prosecutor has the choice whether or not to proceed with your case. You have the right to know why. Should prosecution end before the case gets to trial, it is often due to a lack of evidence.</p> <p>Poor Results</p> <p>Reporting may be frustrating because only a small proportion of the rapists are caught, identified, and arrested, and only a few of those proceed to trial. The police and prosecutor will do the best job they can, however.</p> <p>Insensitivity</p> <p>Although there is getting to be a wider understanding of rape these days, you may be treated rudely, disbelieved, or badgered by a callous defense attorney. The prosecutor will do his or her best to protect you against this treatment.</p> <p>More Trouble</p> <p>Teenagers are often afraid to go to the police because they think they will be punished, especially if they were breaking a rule when the rape happened (i.e. drinking).</p> <p>Publicity</p> <p>Some victims feel they don't want anyone else to know about the rape. The name of the victim is not usually released to the media.</p>

NOTE: In spite of all the positive reasons for reporting a rape or attempted rape, most survivors do not report. The current estimate is that nine out of ten rapes go unreported.

Unsure of Reporting and Anonymous Evidence Collection

1 Survivor is unsure if they want to report or prosecute at the time of the assault.

2 Survivor comes to SANE facility for anonymous evidence collection.

This allows the survivor time to consider reporting or prosecution if they are unsure at the time of the assault. The SANE is able to collect and store vital evidence and the survivor does not have to decide immediately or feel pressured to report. It also provides the survivor with options and helps them to regain a sense of control over their situation by choosing what they want to do. Survivor is also eligible to make an appointment with a counselor following the evidence collection to process the decision to report or not to report.

3 An anonymous SAFE kit is prepared with an identifying number to keep the survivor's name confidential if they are unsure of reporting.

The survivor signs a special release for anonymous evidence collection kit and they are given contact information if they do decide to prosecute at a later date.

4 We keep the evidence kit for one year (at a minimum) to allow the survivor time to decide if they would like to report the rape to law enforcement.

The evidence kit stays at the SANE facility until the survivor is ready to make a decision. Survivors are contacted at the one year mark and given the option to destroy the kit, keep the kit for another 6 months, or move forward with reporting.

Steps to Pressing Criminal Charges

1 Police respond (immediately)

If the survivor is seriously injured, the police will take them to the nearest hospital. If they are not seriously injured, they will take them to the SANE facility at the Crisis Center or One Place.

2 Interview by detective (days-weeks after the assault)

The detective assigned to the case will contact the survivor within a few days (possibly longer, depending on the jurisdiction). The survivor is questioned in greater detail about the incident by the person who will be investigating the case. If they do not wish to press charges, there will be no further questioning.

Steps to Prosecution

3 Warrant screening (months after the assault, likely before evidence is tested)

For most rape cases in Jefferson County, someone from the DA's office, the investigator, an advocate, and a SANE work together to determine if a warrant is issued. If the Assistant District Attorney feels there is sufficient evidence that a rape has occurred and that there is an adequate description of the assailant, a warrant for their arrest may be issued. If for some reason the ADA feels an element is missing or that the case is not prosecutable, the warrant will be denied. The ADA may also request that the investigator obtain more evidence.

In most cases the survivor will sign the warrant as well as appear before the magistrate to swear that what they gave said is true, but the investigating officer may also sign the warrant.

4 Arrest (following the issuing of a warrant)

Arrest may take place at the scene of the incident if officers witness the crime or if other witnesses restrain the assailant until their arrival. If not, arrest may be made only after a warrant is issued.

The detective may make the arrest by serving the warrant. However, in most cases the Jefferson County Sheriff's Department will make the attempt to arrest the assailant. You should be aware it often takes months to make the arrest.

At the time a formal charge is made, the suspect is booked. They may then be released on bail or on their own recognizance.

5 Arraignment (weeks to months following arrest)

The defendant appears before a judge to enter a plea of guilty or not guilty. The Assistant District Attorney, defense attorney (private or appointed) and a judge are present. The victim is not present. Bail may be reexamined at this time.

If the defendant pleads guilty, there will be no trial and the survivor will not have to testify. The defendant will be given a date for sentencing.

6 Preliminary hearing (days to weeks following arraignment)

The survivor will be notified by subpoena of the date and time for which the hearing is set. They will meet with the Assistant District Attorney who will be trying the State's case at this level. This meeting usually occurs on the day of the hearing and often within minutes of the time set for the hearing. It is important that the survivor has the support of the Rape Response legal advocate at this time.

Preliminary Hearings for Jefferson County, with the exception of Bessemer, are held at the Jefferson County Criminal Justice Center. If a case is being tried in the Bessemer district it will be held at the Bessemer courthouse. Cases tried in Walker, Shelby and St. Clair Counties will be held in those counties' courthouse.

The hearing is held for the purpose of determining if there is enough evidence to establish that the defendant may have committed the crime. This is called establishing probable cause.

The survivor may have to testify and give a detailed account of the incident. The defense attorney will then have opportunity to question the survivor. Because the hearing is only to determine probable cause, and not guilt or innocence, the scope of the questioning is limited to the survivor's testimony. Any other factors in the case are not explored.

The defendant is present but is not required to testify. The survivor is usually asked to point out the attacker when they testify.

If the judge decides that a prima facie (valid at first impression) case has been made, the case will be bound over to the Grand Jury and may proceed through the system. If the judge determines that there is not enough evidence for a prima facie case, charges will be dismissed. Through a decision by the defense attorney, the preliminary hearing may be waived, but this is rare. The case would go directly to trial without the survivor having to testify. Bail may be reduced as a part of this agreement.

7 Grand Jury (days to weeks following preliminary hearing)

The Grand Jury is comprised of eighteen citizens.

Testimony before the Grand Jury is theoretically secret. The District Attorney presents their case at this time. Neither the defense attorney nor the defendant appears. The survivor testifies at this point and other prosecution witnesses may be called.

The survivor must testify before the Grand Jury alone. Neither the attorney nor the legal advocate will be allowed to accompany the survivor into the room. However, they may wait with them outside before the survivor testifies.

The Grand Jury will return either a True Bill or a No Bill. If a True Bill is returned, the case is set on the trial docket. If a No Bill is returned, the case goes no further. A No Billed case can only be reexamined if more evidence becomes available after the first Grand Jury.

The survivor will not know the results of the Grand Jury trial for at least one week. After one week the District Attorney's Victim Witness Office should know the outcome. Unless the survivor calls that office, a subpoena to appear in court for trial may be her/his only indication they returned a True Bill.

8 Pre-trial motions (prior to the trial)

The defense attorney may request a suppression hearing at the beginning of the trial. This is to determine if the constitutional rights of the defendant have been violated. The judge has the right to deny or accept the motion for such a hearing. It is often based on questionable identification procedures (the people in the line-up were not similar in appearance or the survivor was shown only a few mug shots from which they chose the defendant). Other types of motions may be made, i.e. the defendant was held in custody too long or was not advised of his/her rights.

If the judge determines that the defendant's rights have been violated, the case may be sent back to an earlier stage in the proceedings or thrown out altogether.

The judge will determine the admissibility at trial of whatever evidence or investigative procedure has been challenged by the defense attorney.

9 The trial (days, weeks, or months after the grand jury)

The purpose of the trial is to establish whether the defendant is guilty beyond a reasonable doubt and to a moral certainty. The survivor will relate the events of the incident and other prosecution witnesses will be called. The defendant may or may not testify.

Defense counsel will cross-examine the survivor. They may refer to the incident report (made at the time of the assault and written in the officer's own words) and any prior recorded testimony (a transcript of the Preliminary Hearing, for example) in order to establish any inconsistency in the survivor's testimony.

The defendant may waive their constitutional right to a jury trial. This is called a jury waiver trial and the case will be heard only by a judge.

Depending on the circumstances, the defendant is advised by their attorney to choose the type of trial that will provide them with the best chance of acquittal.

10 Verdict

In jury trials, the jury delivers a verdict; a judge alone decides jury waiver trials.

The defendant may at any stage plead guilty. If they do this, the survivor may not have to testify and a sentencing date will be set. The Assistant District Attorney and the defense attorney may also agree on some lesser-included offense to which the defendant may plead guilty. This is called plea-bargaining.

If the defendant is found guilty, they have the right to direct appeal. This involves having the case reviewed by a higher court.

The State does not have the right to appeal.

11 Sentencing

This may occur at the end of the trial, but is often deferred to allow for a pre-sentencing investigation by a probation officer. This report will contain background information on the defendant and can include sentencing recommendation for the judge.

The Code of Alabama fixes punishment at not less than 10 years.

Victim Rights

Many time clients ask what are *their* rights during this process. There are some rights for victims established by the Crime Victims' Rights Act (Act 95-583). Crime victims have the right:

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- › To be present throughout all criminal proceedings;

 - › To a waiting area separate from the defendant, their relatives and defense witnesses, where practical;

 - › To protection from threats or intimidation by the defendant, their family, or friends;

 - › To have address, phone number, place of employment or other related information kept in confidence and not part of the public record;

 - › To refuse an interview or other communication from the defendant, their attorney or any other person acting on the defendant's behalf;

 - › To be present, heard and present evidence at any pre-sentencing, sentencing or restitution proceeding, as authorized by law;

 - › To know the status of any post-conviction hearings;

 - › To be notified of the prisoner's escape or subsequent re-arrest;

 - › To be notified of any "end of sentence" release within 15 days prior to the end of that sentence;

 - › To submit a written statement (or oral transcription) to the Department of Corrections to be entered in to the prisoner's permanent record;

 - › To information regarding the release of any property taken as evidence;

 - › To be notified and heard at a parole or pardon hearing conducted by the Board of Pardons and Paroles;

 - › To receive, upon written request, a copy of the release opinion from the Alabama Department of Mental Health and Mental Retardation, if applicable;

 - › To respond to a subpoena to testify in a criminal proceeding or participate in the reasonable preparation of criminal proceeding without the loss of employment or the intimidation, threats or fear of the loss of employment.
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Victims' Responsibilities

- The victim (or their legal representative) must notify the District Attorney's Office in writing that they wish to invoke your rights.
- The victim must provide and MAINTAIN a correct, current mailing address and telephone number to the District Attorney's Office. If the victim fails to keep this information current, their request for notice shall be considered withdrawn and void.

Crime Victims Compensation

Victims of Violent Crimes May Qualify for Compensation If:

- The crime was reported to law enforcement within 72 hours (unless good cause can be shown for not doing so). Good cause must be submitted in writing.
- The claim is filed within one (1) year of the date of the incident (unless good cause can be shown for not doing so). Good cause must be submitted in writing.
- The victim suffered serious personal injury or death as a result of a criminal act.
- The victim cooperated with law enforcement officials, the courts, and ACVCC.
- The victim was not engaged in illegal activity or was not in an illegal place of business at the time of the incident.
- The victim did not provoke, incite, or willingly take part in the incident.
- The victim was not convicted of a felony after applying for compensation.

<https://acvcc.alabama.gov/>



Benefits Available



Medical Expenses

Including doctor and hospital care, dental expenses, prescriptions, medical supplies, inpatient psychiatric care, etc. This does not include expenses covered by insurance.



Rehabilitation Expenses

Including vocational or physical therapy, if not covered by another agency.



Counseling Expenses

Including counselor, psychologist, or psychiatric fees for counseling. Limited to 50 sessions and payments limited to \$80.00 per hour for license counselors and social workers; \$100.00 per hour for psychologists; \$125.00 per hour for psychiatrists; and \$60 per hour for group therapy.



Work Loss

Including the victim or claimant's net (take-home) weekly pay for a reasonable length of absence from work. This does not include vacation pay, sick pay, or disability pay. There is a maximum of \$400.00 per week of work loss, up to 26 weeks.



Funeral Expenses

Including funeral home expenses, cremation, burial expenses including monument. The total allowable for funeral costs is \$5,000.00. We cannot consider expenses for flowers, clothing or limousines.



Property Expenses

Including only property taken as evidence by law enforcement, which was soiled or damaged as the result of the crime. This does not include automobiles, automobile repair, insurance deductibles, appliances, or money. There is a \$1,000.00 maximum on property expenses.



Moving Expenses

Including security deposits, utility deposits, and the cost to move. It does not include rent payments. There is a \$1000.00 maximum on moving expenses. This is only considered in extreme circumstances when the victim is in imminent physical danger and when the offense occurred at home.



Future Economic Loss

Future or additional moving expenses or loss to victim or victim's dependents. Must be justified with explanation of how losses were calculated.



Crime Scene Cleanup

Reasonable costs to clean the scene of a crime, maximum of \$2500.

Emergency Awards

Supplemental Awards

For More Info, Contact

<p>These are reserved for cases of dire economic need. Usually these awards are granted for loss of income or moving expenses. If you are requesting an emergency award for loss of income, please attach a statement from your employer stating the time lost from work and your net (take-home) weekly pay. If you are requesting an emergency award for moving expenses, you must attach estimates or receipts for the requested items. There is a maximum of \$1,000.00 for emergency funds.</p>	<p>If you have additional expenses which you have incurred after the award is made, which are directly related to the crime, those bills can be submitted and will be considered every three months, up to a maximum time period of two (2) years from the date the initial claim is paid.</p>	<p>Alabama Crime Victims Compensation Commission PO Box 1548 Montgomery, AL 36102-1548 (334) 242-4007 1-800-541-9388 (Victims Only) Fax (334) 353-1401</p>
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