

Responding to Sexual Violence

Legal options for adults who have experienced sexual violence

If you have experienced sexual violence, you are not alone.

You can respond in many ways.

Responses include options inside or outside the legal system. This resource covers legal options but there are many other options available, such as accessing counselling or community supports, seeking medical help, and connecting with friends, family or work.

To connect with support services in your area:

- Call or text **Alberta's One Line for Sexual Violence** (1.866.403.8000)
- Call the **Canadian Human Trafficking Hotline** (1.833.900.1010) or chat live at www.canadianhumantraffickinghotline.ca
- Call or text **Alberta 211** (2-1-1) or chat live at www.ab.211.ca
- See a list of sexual assault centres across Alberta at aasas.ca/get-help

The **legal responses** you may choose depend on:

- the act of sexual violence
- the relationship between you and the person who caused the harm
- what result you want

You can choose to do nothing. There are many reasons why people who have experienced sexual violence choose not to report it or seek help. It is important to respect their choices.

Sometimes the law requires reporting. This is the case for anyone who is vulnerable, including children and youth, and adults included under the *Persons in Care Act*.

It is your choice how to respond.

Produced in collaboration with:



This tip sheet describes legal responses to sexual violence. It does not cover all responses available to those who have experienced sexual violence. Read on for more info on organizations that can provide support. The other tip sheets in this series are available at: www.cplea.ca/sexual-violence/

Overview of Legal Responses

This chart briefly describes legal responses to sexual violence. Remember, you can choose any, all or none of the legal responses that apply to your situation. Whatever you choose is entirely valid.

Response	Laws that apply	What happens next	Resolution for survivor
Report to police	<i>Criminal Code of Canada</i>	Police may charge the accused with one or more criminal offences. The charges may go to court where a judge or jury decides if the evidence proves the accused is guilty beyond a reasonable doubt.	Police may investigate the event, which may lead to a criminal court process.
Ask the court for a protection order	<i>Protection Against Family Violence Act</i>	If the person who caused harm is a family member, you can apply to court for an Emergency Protection Order or Queen's Bench Protection Order.	Protection orders order the person who caused harm to stay away from you as well as places you regularly go.
	<i>Protecting Survivors of Human Trafficking</i>	If the person who caused harm is trafficking you for sex, you can apply to court for a Human Trafficking Protection Order.	In some cases, you can also ask the court to order the person who caused harm repay you for out-of-pocket expenses you incurred because of the abuse, and for other financial compensation.
	Common law (judge-made law)	Regardless of your relationship with the person who caused harm, you can apply to court for a restraining order.	
File a human rights complaint for sexual harassment	<i>Alberta Human Rights Act</i>	If you are experiencing sexual harassment, you can file a complaint with the Alberta Human Rights Commission. The Commission can order changes in behaviours (such as changing a workplace policy) and money awards.	You can ask for payment of out-of-pocket expenses, and pain and suffering damages.
File an occupational health and safety (OHS) complaint	<i>Occupational Health and Safety Act</i> and <i>Occupational Health and Safety Regulation</i>	If you are experiencing sexual harassment or violence at work, and your employer is not dealing with the situation, you can report the issue to Alberta Occupational Health and Safety.	You will not receive any compensation. The employer will have to abide by any orders (such as improvements to workplace policies) or pay fines after the investigation.
File a civil claim	<i>Protecting Survivors of Human Trafficking</i>	If you are a victim of sex trafficking, you can file a civil claim against the person who caused harm asking them to pay you money as damages for the act.	You can ask the court to order the person who caused harm to pay you out-of-pocket expenses you incurred, and pain and suffering damages. If you were being trafficked, you can ask them to return profits they made by trafficking you.
	Common law (judge-made law)	If you are a victim of sexual violence, you can file a civil claim against the person who caused harm asking them to pay you money as damages for the act.	

For more information about each response, read the rest of this booklet and the other tip sheets in this series available at www.cplea.ca/sexual-violence/.

“What result do I want?”

When deciding on legal responses, it is helpful to think about what you want as a result of taking action. Do you want the person who caused harm to be criminally charged? Do you want money to compensate you? Do you need protection from the person who caused harm? Are you looking for an apology or acknowledgement of the act? The law may be able to help with the first three – criminal charges, money and protection – but the law cannot make them apologize for what they did to you.

This tip sheet describes the laws that address sexual violence as well as:

- tools to keep person who caused harm away
- financial compensation
- timelines for legal responses
- evidence you will need

The Laws on Sexual Violence

There are different laws in Canada and Alberta that address sexual violence. These include criminal, human rights, workplace safety, civil, human trafficking and family laws.

Each law has a different purpose. Each law can also provide different resolutions for the person who experienced sexual violence. For example, the purpose of criminal charges is to punish the person who caused harm for the crime they committed. Criminal laws do not address the victim. If you have experienced sexual violence at work, you may be able to file a human rights complaint against your employer. A person experiencing sexual violence from a family member can apply for a no contact order under Alberta's *Protection Against Family Violence Act*. There are different no contact orders if the person who caused harm is not a family member.

One or more laws may apply to your situation. This means you can choose one or more responses.

For example, you can choose to report the violence to police. You may also need a protection order against the person who caused harm and choose to sue them in civil court.

Keeping the Person Who Caused Harm Away

The court can order that the person who caused harm stay away from you.

The appropriate order depends on your relationship with them.

If the person who caused harm is: **You can apply for a:**

A family member	Emergency Protection Order (EPO) <i>or</i> Queen's Bench Protection Order (QBPO)
Trafficking you for sex	Human Trafficking Protection Order (HTPO)
Anyone (family member, co-worker, other)	Restraining Order <i>or</i> Peace Bond

EPOs, QBPOs, HTPOs and restraining orders are *protection orders* or *no contact orders*.

Emergency Protection Order or Queen's Bench Protection Order

Victims of family violence can apply for a protection order under Alberta's *Protection Against Family Violence Act*.

An **Emergency Protection Order (EPO)** is available in emergencies, 24 hours a day, seven days a week. An EPO can forbid the person who caused harm from having any contact with you or going near places that you often visit. An EPO can also give you exclusive occupation of your home and order the person who caused harm to leave.

A **Queen's Bench Protection Order (QBPO)** is like an EPO but you can only apply for one if you give notice to the person who caused harm (called the respondent). A QBPO provides the same protections as an EPO. It can also give you temporary possession of personal property (such as your ID, bankcards, vehicle, keys, etc.) and order that the person who caused harm reimburse you for monetary losses (such as loss of income or support, medical expenses, out-of-pocket expenses, moving expenses, legal expenses, etc.).

For more information on EPOs and QBPOs, see the tip sheet in this series called **Sexual Violence within a Family**.

Human Trafficking Protection Order

Any person who is being trafficked, including for sexual exploitation or forced labour, can apply for a **Human Trafficking Protection Order (HTPO)**. An HTPO can forbid the trafficker from following you, communicating with you or going places you regularly attend. An HTPO can also require the trafficker to return your pet, personal belongings and any visual recordings of you.

For more information on HTPOs, see the tip sheet in this series called **Sex Trafficking**.

Restraining Order

To get a restraining order, you must show that you suffered vexatious (very annoying or frustrating) conduct by the person who caused harm (called the respondent). A restraining order can require the respondent to stay away from your home, workplace or other place you regularly go. A restraining order can also order the respondent to stop harassing, watching, following, phoning or interfering with you, directly or indirectly. You can get a restraining order against anyone, regardless of their relationship to you. You can apply for a restraining order if you do not meet the requirements of an EPO, QBPO or HTPO.

For more information on restraining orders, see the tip sheet in this series called **Civil Law Remedies**.

Peace Bond

The Criminal Court grants peace bonds. A peace bond is sometimes called an 810 recognizance.

Peace bonds are used in two situations:

1. To deal with criminal charges.
2. Where the person who caused harm appears likely to commit a criminal offence but the police do not have enough evidence that one has already been committed.

It can take two to three months to get a peace bond. Either the police will ask the Crown prosecutor to apply for one or you can go directly to the Provincial Court – Criminal counter at the courthouse to apply yourself.

Financial Compensation

If you have experienced sexual violence, and choose one of the following legal responses, you may be eligible for financial compensation.

If you are:	You can apply for:
Reporting harm to the police* <i>*Only some crimes are eligible, such as sexual interference, sexual exploitation, child pornography, sexual assault, trafficking. For a complete list, see Schedule 1 of the Victims of Crime and Public Safety Regulation.</i>	Emergency assistance to help with: <ul style="list-style-type: none">• Emergency safety and security losses and damages• Reimbursement for expenses related to attending court for specific events (such as sentencing or providing a victim impact statement)• Immediate access to short-term supports (such as counselling) Restitution from the person who caused harm for out-of-pocket expenses directly related to the crime (such as bodily harm, lost wages, counselling services, moving expenses, etc.). You can only apply for restitution if the accused pleads guilty or if a judge or jury convicts them. And you must apply before the accused is sentenced.
Filing an action for human trafficking	Out-of-pocket expenses and losses (such as lost income and costs of any medical treatments). Pain and suffering damages. Return of profits made from you being trafficked.
Filing a human rights complaint	Out-of-pocket expenses and losses (such as lost income and costs of any medical treatments). Pain and suffering damages. These amounts are usually nominal (under \$20,000).
Filing a civil lawsuit	Out-of-pocket expenses and losses (such as lost income and costs of any medical treatments). Pain and suffering damages.
Applying for a Queen's Bench Protection Order (QBPO)	Out-of-pocket expenses and losses (such as lost income and costs or medical treatments).

For more information on these responses and getting legal help, see the other tip sheets in this series at www.cplea.ca/sexual-violence/.

Timelines for Legal Responses

There is no time limit to report sexual violence to the police. But some legal responses do have time limits.

Response	Timeline
Reporting to the police	<p>No deadline</p> <p>To get emergency assistance, you must report to police within a reasonable period of time.</p>
Applying for a no contact order	<p>As soon as possible</p> <p>The purpose of a no contact order is to protect you from immediate harm or threats of harm.</p>
Starting a civil lawsuit	<p>No deadline to file a civil claim for:</p> <ul style="list-style-type: none"> • Claims that relate to a sexual assault or battery • Claims that relate to any sexual misconduct, other than sexual assault or battery, if at the time of the misconduct any of the following were true: <ul style="list-style-type: none"> - you were a minor - you were in an intimate relationship with the person who caused harm - you were dependent (financially, emotionally, physically or otherwise) on the person who caused harm - you were under a disability <p>For most other claims, Alberta’s <i>Limitations Act</i> says a plaintiff has two years to start a lawsuit. Usually, the two years starts running as soon as the action that caused harm to the plaintiff occurred. If you think you are out of time to start a lawsuit, talk to a lawyer immediately.</p>
Filing a human rights complaint	<p>One year from the date of the act</p> <p>If the behaviour is ongoing, one year from the date of the latest act.</p>
Filing an occupational health and safety complaint	<p>As soon as possible</p> <p>An officer has two years from the date of the act to issue an administrative penalty or to start court proceedings.</p>

For more information on these responses and getting legal help, see the other tip sheets in this series at www.cplea.ca/sexual-violence/.

Evidence

To legally respond to sexual violence, some examples of relevant evidence include:

- your account of what happened (either orally or in writing)
- firsthand accounts from other people who witnessed what happened
- any documents that relate to the sexual violence, such as text messages, emails, photos or videos
- evidence (such as semen, fingerprints or hair)

Examples of Evidence

Someone sexually assaults you at a party. Within up to 4 days of the act of sexual violence, you can go to a hospital for medical care and evidence collection. Some hospitals have Sexual Assault Response Team (SART) nurses or doctors available to help. At any time after the act of sexual violence (including years later), you can call the police or go to a police station. The police will ask you what happened, ask if anyone else witnessed what happened, and try to collect forensic evidence.

Your co-worker keeps grazing your arm with theirs, making lewd comments and sending you inappropriate emails. It is helpful to make notes of what happened and make copies of the emails. You can also ask anyone who witnessed the behaviour to provide a statement.

Your ex posted a video of you in a sexual position. You did not give them consent to post the video. Your friend finds the video online and tells you about it. It is helpful to note where the video is posted and take screenshots if you can (in case your ex later takes down the video). Your friend could also provide a statement of how they found the video.

Looking for more information?

See SACE's resource **Medical Care After Sexual Assault** at: <https://bit.ly/2PDyFam>

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You should NOT rely on this publication for legal advice. It provides general information on Alberta law only.

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The other tip sheets in this series are available at: www.cplea.ca/sexual-violence/

Sexual Assault Centre of Edmonton

SACE supports children, youth, and adults who have experienced sexual abuse or assault, and educates the public about sexual violence.

www.sace.ca

Elizabeth Fry Northern Alberta

EFry supports women and girls who are or may be at risk of becoming criminalized.

www.efrynorthernalberta.com

Centre for Public Legal Education Alberta

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www.cplea.ca