

Sexual Assault & The Juvenile Court Process

A Guide for Victims/Survivors & Their Families



A publication of Connecticut Sexual Assault Crisis Services, Inc.
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Introduction & Acknowledgements

This brochure was designed to provide victims of sexual assault and their families with information about the juvenile court process. It is our hope that this brochure will help families to become aware of their rights as crime victims, learn what assistance is available to them, and gain some basic knowledge about court procedures and what to expect during the court process.

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Connecticut Sexual Assault Crisis Services, Inc. (CONNSACS) is a statewide association of community-based sexual assault crisis centers. Each center has counselor/advocates who help children, teens and adults by providing:

- ▼ Advocacy and support at the hospital
- ▼ Advocacy and support with the police
- ▼ Advocacy and support through the entire court process
- ▼ Counseling, support, information and referrals

To find the center closest to you, call our toll-free, 24-hour Crisis Hotline at: **1-888-999-5545**
Or En Español: **1-888-568-8332**

All Services are Free and Confidential.

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How is Juvenile Court Different from Adult Court?

The juvenile court system is a relatively new concept in the United States, beginning only about 100 years ago. Connecticut established its statewide juvenile court system in 1941 to deal specifically with children and youth up to 16 years of age.

There are several key differences between juvenile and adult court, namely:

- ✓ Juvenile matters are confidential and the courtroom is closed to the public.
- ✓ Juvenile records are sealed, meaning they are confidential and can only be viewed by certain individuals. If a juvenile later gets involved in the adult court system, in most cases the adult court cannot access his/her records.
- ✓ Upon two to four years after successful completion of a sentence, a juvenile may petition for his/her record to be erased.
- ✓ Most cases are adjudicated (completed) much quicker than in adult court and sentences are generally shorter for juveniles.
- ✓ Juvenile offenders are assigned a probation officer at the initial court date, unlike in the adult system where an offender is not assigned a probation officer until after he/she is sentenced.
- ✓ Juvenile court cases can be designated as delinquency (criminal) or Family With Service Needs (FWSN) (non-criminal or non-judicial) in which a family agrees to work informally with a probation officer and can access services through the court.
- ✓ The primary goal of juvenile court is rehabilitation. This means that the court works to help the juvenile offender receive appropriate services and interventions so that he/she will not continue to break the law.
- ✓ Trials are by judge only, there are no jury trials.
- ✓ Juveniles who are remanded to detention are held with other juveniles in a detention facility and do not go to a correctional facility with adults. Although, in some cases if the juvenile offender is 14 or older and charged with a serious crime, his/her case may be transferred to the adult court and he/she may be held in and/or sentenced to an adult correctional facility.

What Happens Next?

ARREST

Police Officer will give the juvenile offender a date to appear in juvenile court.



INITIAL PLEA HEARING

- Juvenile will enter plea of guilty or not guilty.
- A defense attorney or public defender is appointed, or juvenile is given time to hire a private attorney. In some cases, a juvenile may not want an attorney to represent him/her.
- A juvenile probation officer is assigned and interim orders are entered, usually including no contact with the victim.
- Guardian Ad Litem(s) may be appointed at this time.
- Pre-trial date is set; usually about one month after plea hearing.



PRE-TRIAL

- Usually there are one or two pre-trials, (although there can be more) depending if the prosecutor and defense attorney can reach an agreement.
- Involves conversations between the attorneys, sometimes with a judge, to try and reach an outcome for the case without going to trial.
- A plea agreement may be reached at this time; if that happens, a disposition date will be set and there will not be a trial.



TRIAL

- By judge only.
- Each side presents witnesses and evidence, as well as a chance to question the witnesses from the other side.
- The victim testifies as a witness for the prosecution.
- Judge will issue decision. Possible outcomes include: Guilty, Not Guilty, or Mistrial.



DISPOSITION

- If there is a finding of guilty, defendant is sentenced. Can include dismissal with a warning, probation, and/or residential placement.
- Judge determines sentence based on many factors, including plea agreement, pre-dispositional study (PDS) and victim's impact statement.



APPEAL

Defendant has the right to appeal a guilty decision.

The victim will receive a victim packet from juvenile probation informing the victim of his/her rights and the assigned probation officer in the case.

Violations of criminal law are considered crimes against the state. The prosecutor represents the state and the victim is a witness for the state.

Although a victim cannot determine a plea agreement, he/she does have the right to agree or disagree with any plea agreement being offered and to make a statement to the court at disposition.

The victim is required to be in the courtroom only when he/she is testifying. However, it is the victim's right to attend any court hearing if he/she chooses. Often the victim cannot be in the courtroom when others are testifying.

The victim can choose to be in the courtroom when the defendant is sentenced. At this time the victim can tell the judge how the assault has affected him/her and what he/she would like to see happen to the defendant. This is called a Victim Impact Statement.

IF FOUND NOT GUILTY:

- Cannot take any more action in criminal court.
- Case subject to automatic erasure.
- May be able to take action in civil court.

IF THERE IS A MISTRIAL:

- Can happen for a variety of reasons.
- Can result in a new trial.

Words To Know...

ARREST WARRANT: A written order of the court signed by a prosecutor that gives police the authorization to make an arrest.

CHARGES: The crime or crimes the defendant is accused of committing.

CROSS EXAMINATION: Questioning the witnesses by the attorney from the other side.

DELINQUENCY: Criminal charges; i.e., a law was broken. Only pertains to juveniles under the age of 16 in Connecticut.

DISPOSITION: The final sentence or judgment of the case.

FAMILY WITH SERVICE NEEDS (FWSN): Sometimes a sexual assault case will come into juvenile court as a non-delinquency, or non-criminal case. The case is classified as "Indecent and Immoral Conduct" under FWSN, so that the family can get services through the court without a formal criminal charge being brought against the juvenile.

PLEA: The defendant's response to a criminal charge (or Family With Service Needs petition) against him/her. The defendant enters a plea at the first court date.

PLEA BARGAIN: An agreement between the prosecutor and the defense attorney about the charges, plea, and sentence. Usually happens during pre-trial stage, but can happen at other stages.

PRE-DISPOSITIONAL STUDY (PDS): Before a defendant is sentenced, his or her juvenile probation officer will write a PDS that will be presented to the court at the disposition. In this study, the probation officer will gather information from a variety of sources about the defendant. Included in the PDS is a section on how the crime has impacted the victim(s).

PRE-TRIAL: After the initial plea hearing, the prosecutor and defense attorney will meet to discuss possible outcomes for the case. The probation officer assigned to the case, guardian ad litem(s) and a victim advocate may also be present at the pre-trial.

SUBPOENA (SU-PEEN-A): An order requiring a person to appear in court and testify. If you ignore a subpoena, you can be arrested.

TESTIFY: When a witness goes on the stand and swears to tell the truth about what he/she knows about the case.

VERDICT: At the end of a trial the judge will come back to the court with a decision of guilty or not guilty.

Who's Who?

CLERK: The clerk sits near the judge and helps out in the courtroom.

OFFICE OF VICTIM SERVICES (OVS) VICTIM SERVICES ADVOCATE: The OVS Victim Advocate works for the State of Connecticut and is based in the courthouse, although only 3 juvenile courts have a victim advocate at the present time. The OVS Victim Advocate can help victims by providing information, case updates, assistance and help with victim compensation applications.

COURT REPORTER: The court reporter's job is to record everything that is said during court proceedings.

DEFENDANT: The person formally charged with a crime.

DEFENSE ATTORNEY: The defendant's attorney. The attorney can be appointed by the court (Public Defender) or hired by the defendant. The defense attorney's job is to defend the accused.

DEPARTMENT OF CHILDREN AND FAMILIES (DCF): Sometimes DCF may be involved in a case to investigate whether or not there has been child abuse or neglect. Also, if a juvenile cannot be supervised in the community, he/she is committed to DCF and placed in a residential treatment facility. In these cases, DCF parole officers will supervise the juvenile.

INVESTIGATOR: The person assigned to investigate the facts of the case. An investigator may work for the police, prosecutor's office or a defense attorney. You may want to consult with your advocate before talking with an investigator.

GUARDIAN AD LITEM: Latin for "Guardian at Law". A person (usually an attorney) appointed by the court for a victim and/or defendant. A Guardian Ad Litem is responsible for explaining and protecting the minor child's legal rights during the criminal court process, and, in some cases, making a report to the court about the best interests of the minor child (a victim may or may not agree with this report). The Guardian Ad Litem is not a victim's personal attorney.

JUDGE: The judge is in charge of the courtroom. The judge listens to the facts of the case and rules on all points of law, gives the verdict in a trial, and sentences the defendant.

JUDICIAL MARSHAL: Judicial Marshals help keep order in the courtroom. He or she also brings in the witnesses during a trial.

JUVENILE PROBATION OFFICER: When a juvenile is arrested and attends his or her first court appearance he or she is assigned a probation officer. The probation officer will monitor the juvenile to make sure that he or she follows the orders imposed by the court. The probation officer also writes a Pre-Dispositional Study (PDS) to submit to the court with his or her recommendations for appropriate treatment for the juvenile.

PROSECUTOR: An attorney who works for, and represents, the state of Connecticut. The prosecutor is not your personal attorney. It is his or her job to ensure that justice is done.

SEXUAL ASSAULT VICTIM ADVOCATE: A person who works for one of nine Sexual Assault Crisis Centers (SACS) around the state. A SACS advocate can go with you to court, help you to express your wishes to the police, prosecutor, or judge, inform you of your rights, explain the court process, offer support, and connect you with others who can help you.

Some Things to Remember

BEFORE GOING TO TRIAL

- ✓ It's normal to feel nervous or scared, but there will be many adults at the courthouse to help and protect you. It's also important to talk about your feelings with someone you trust.
- ✓ It's a good idea to go to the courthouse before the trial starts so that you can see what a courtroom looks like. Sometimes this can make you feel more comfortable.
- ✓ The prosecutor will meet with you before the trial to talk about your testimony and what can be expected. This is a good time to ask questions, too.
- ✓ Go to bed early the night before and get plenty of sleep.
- ✓ Eat a good breakfast.
- ✓ Pick out the clothes you are going to wear the night before. Wear something that is nice but comfortable.
- ✓ Sometimes you may spend a lot of time at court waiting around. You may want to pack some things to bring with you, such as books or magazines, art supplies, homework, a quiet game, a portable music player with earphones, and a snack in case you get hungry.

WHEN GOING TO TRIAL

- ✓ Usually the victim testifies on the first day of trial. Sometimes parents can be in the courtroom when the victim is testifying and sometimes they cannot. In some cases the victim may have to testify for more than one day.
- ✓ When you testify, both the prosecutor and the defense attorney will ask you questions about what happened to you. It is important to listen very carefully to the questions that you are asked.
- ✓ If you don't understand a question it's ok to say you don't understand.
- ✓ Sometimes lawyers use big words; if you don't know what something means, it's ok to say so.
- ✓ If you don't know the answer to a question, it's ok to say you don't know.
- ✓ If you don't remember something that is asked of you, be sure to say so.
- ✓ If you hear the word "objection" you should stop talking. This means that one of the attorneys has a problem with something that was said. The judge will tell you when it's ok for you to answer the question.
- ✓ The defense attorney's job is to help the defendant, not you.
- ✓ Only answer the question that is asked of you. If the lawyer wants more information they will ask another question.
- ✓ After testifying you may feel a mix of different emotions. You may feel relieved, angry, scared, sad, depressed or all or none of the above. It is important to be able to talk about your feelings with someone you trust.

Rights of Crime Victims

AS A VICTIM OF CRIME YOU HAVE CERTAIN RIGHTS UNDER THE CONNECTICUT CONSTITUTION:

- ✓ To be treated with fairness and respect throughout the criminal process.
- ✓ To have your case disposed of (or completed) in a timely manner.
- ✓ To be protected from the defendant throughout the criminal process.
- ✓ To be told of court dates, and what will happen at the court date.
- ✓ To attend the arraignment, pre-trial court dates, trial and sentencing if you wish to.
- ✓ To be able to talk to the prosecutor and investigators about your case.
- ✓ To have the opportunity to agree or disagree with any plea agreement offered to the defendant and to make a statement (say something) to the court before a guilty plea (or a plea of nolo contendere or “no contest”) is accepted by the court.
- ✓ To make a statement to the court at sentencing.
- ✓ To receive restitution or be paid back for expenses or property lost due to the assault.
- ✓ To receive information about the arrest, conviction, sentence, imprisonment and release of the offender from prison, if the juvenile is transferred and sentenced in adult court.
- ✓ It remains unclear whether or not the State Constitutional Crime Victims’ Rights Amendment applies in juvenile proceedings in Connecticut. In 2002, the Connecticut Supreme Court did not issue a ruling. However, as there is no definitive ruling, it can still be argued that Constitutional Victims’ Rights do apply in juvenile proceedings.

ADDITIONALLY, AS A VICTIM OF SEXUAL ASSAULT, CONNECTICUT LAW GIVES YOU THE LEGAL RIGHT...

- ✓ To have your conversations with a sexual assault counselor remain confidential and not be used in court, unless you give permission for them to be used. [§ 52-146k].
- ✓ To not have your present or past sexual conduct brought up during the trial unless the court, after a hearing, decides that it is strongly related to the trial. You can speak with the prosecutor about this [§52-86f].
- ✓ To not have your address or phone number disclosed in the courtroom during any proceeding in the prosecution of cases involving sexual assault, injury or risk of injury to a child, or impairing the morals of a child [§54-86f]. You also have the right to have your name and address in the court records remain confidential from people not involved in the case (the defendant will be able to know this through his/her attorney) and released only by an order of the court [§54-86e].
- ✓ Finally, you have the right to be compensated (paid back) for some of the expenses you had to pay as a direct result of the assault. The Office of Victim Services (OVS) has forms available for victim compensation. At your request, if the juvenile defendant is transferred and sentenced in adult criminal court, OVS will also notify you when the offender is released from jail or a parole hearing is scheduled. You may request a compensation form or a notification form by calling **1-800-286-7347** for Compensation and **1-800-822-8428** for Notification.



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