



FAQs PETITION FOR A SEXUAL VIOLENCE PROTECTIVE ORDER

Superior Court Contact Information

New Castle County

Leonard L. Williams
Justice Center
500 N. King Street
Wilmington, DE 19801
302-255-0800

Hours: Monday – Friday
8:30 a.m. to 4:30 p.m.

Kent County

Kent County Courthouse
414 Federal Street
Dover, DE 19901
302-735-1900

Hours: Monday – Friday
8:15 a.m. to 4:30 p.m.

Sussex County

Sussex County Courthouse
1 The Circle, Suite 2
Georgetown, DE 19947
302-855-7055

Hours: Monday – Friday
8:30 a.m. to 4:30 p.m.

All Court forms can be found on the
Superior Court website:

<https://courts.delaware.gov/superior>

What is a Sexual Violence Protective Order?

A Sexual Violence Protective Order is a court order that requires the perpetrator (Respondent) to stay away from a victim (Petitioner) of rape or other sexual violence.

What county should the petition be filed?

The petition may be filed in the Superior Court in the county where the victim resides, the perpetrator resides, or the county in which the non-consensual sexual conduct occurred.

Who can file a Petition for a Sexual Violence Protective Order?

A person who is a victim of non-consensual sexual conduct or a person who is acting on behalf of any of the following victims of non-consensual sexual conduct:

- A minor child.
- An incapacitated adult.

If the perpetrator poses an immediate and present danger of causing injury to the victim, can an emergency hearing be scheduled?

Yes, emergency hearings will be heard within 72 hours of filing.

Is there a filing fee?

No, there is no fee associated with Petitions for a Sexual Violence Protective Order.

What are the requirements for getting a Sexual Violence Protective Order?

- The petitioner must be the person named in a petition seeking a sexual violence protective order, or any named victim of non-consensual sexual conduct or non-consensual sexual penetration on whose belief the petitioner is brought, and who is not a member of a protected class under 10 *Del. C.* § 1041(2)(a) or (2)(b).
- Alleged non-consensual sexual conduct occurred between the victim and perpetrator.
- The respondent/perpetrator must be at least 18 years of age.
- Victims under the age of 18 but at least 16 years of age may ask the Court to appoint a Guardian Ad Litem to assist with the petition.

IT IS IMPORTANT FOR YOU TO UNDERSTAND

Judges are required by law to report abuse of minors. **If you are a minor**, under the age of 18 but at least 16 years of age and file a request with the Court for a Sexual Violence Protective Order, the judge is likely to make a report to the Department of Services for Children, Youth, and their Families and/or law enforcement.

What happens at an emergency hearing?

You will meet with a Social Service Specialist, who will assist with completing the Petition for a Sexual Violence Protective Order. A judicial officer will review the petition to determine if a Temporary Sexual Violence Protective Order should issue. The judicial officer may ask you some questions. If an Order is issued, the victim will receive a certified copy of the Order before leaving the courthouse, and a date for a full hearing will be provided. The perpetrator will be served a copy of the Order and notified of the full hearing date. The full hearing must be held within fifteen (15) days of the temporary order being issued.

What happens at a regular hearing?

A judicial officer will review the Petition for a Sexual Violence Protective Order and will have questions for the victim and perpetrator. Both parties have the right to be heard, to present evidence and to cross-examine witnesses. If an Order is issued, both parties will receive a certified copy of the Order before leaving the courthouse.

Do I need a lawyer?

You are not required to have a lawyer to request a Sexual Violence Protective Order. You can have a lawyer represent or help you if you wish.

What if I need an interpreter?

If you need an interpreter, please indicate this information on the Petition for a Sexual Violence Protective Order.

How long does a Sexual Violence Protective Order last?

A Sexual Violence Protective Order is in effect up to three (3) years. A victim may request a renewal of a Sexual Violence Protective Order at any time within three (3) months prior to the expiration of the original Order.

What happens if the perpetrator violates (does not obey) The Sexual Violence Protective Order?

You can call the police. The officer will determine if a violation of the Sexual Violence Protective Order has occurred. The perpetrator may be charged with criminal contempt of a Sexual Violence Protective Order; a class A misdemeanor or class F felony depending on the offense.

UNDERSTANDING LEGAL TERMS IN A PETITION FOR A SEXUAL VIOLENCE PROTECTIVE ORDER

Petitioner – A person initiating a legal action, usually in a civil case. The petitioner is the person who is filing a Petition for a Sexual Violence Protective Order, or any named victim of non-consensual sexual conduct or non-consensual sexual penetration on whose behalf the petition is brought and who is not a member of a protected class under 11 Del. C. §1041(2)(a) or (b)

Respondent – The person alleged to have engaged in the conduct giving rise to the petitioner’s desire to seek a Sexual Violence Protective Order.

Non-consensual – Without consent.

Non-physical contact – Telephone calls, mail, email, fax, text messages, or other written, verbal, or digital communication.

Sexual Conduct –

- a. Any intentional touching or fondling of the genitals, anus, or breasts, directly or indirectly.
- b. Any intentional display of the genitals, anus, or breasts for the purpose of arousal or sexual gratification of the Respondent.
- c. Any intentional touching or fondling of the genitals, anus, or breasts, directly or indirectly, that the Petitioner is forced to perform by the Respondent.
- d. Any forced display of the Petitioner’s genitals, anus or breasts for the purpose of arousal or sexual gratification of the Respondent or others.
- e. Any intentional touching of the clothed or unclothed body of a child under the age of 12, or age 16 if the Respondent is more than 4 years older, if done for the purpose of sexual gratification or arousal of the Respondent or others.
- f. Any coerced or forced touching or fondling of a child under the age of 12, or age 16 if the Respondent is more than 4 years older, directly or indirectly, including through the clothing, of the genitals, anus, or breast of the Respondent or others.
- g. Any other sexual conduct which a reasonable person would find threatening or harmful.

Sexual Penetration – Any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth, or anus of another person, or any intrusion, however slight, of any part of the body of one person, or of an animal, or object into the sex organ or anus of another person, including cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required for an act of sexual penetration.

Ex Parte Order – A temporary emergency order granted for the benefit of one party without notice to the other party. A full hearing with notice to both parties is held at a later date.