

KNOW YOUR RIGHTS

A Guide for Survivors of
Sexual Assault in Kansas

2016



Kansas Coalition Against Sexual and Domestic Violence

www.kcsdv.org

KNOW YOUR RIGHTS:

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Developed by:



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Know Your Rights: A Guide for Survivors of Sexual Assault in Kansas

About this Guide

Sexual assault can be devastating and can affect every part of your life. If you are a survivor of sexual assault, you may feel confused or overwhelmed. It is important to remember that you have rights. This guide provides basic information about these rights and remedies that may be available to you. It is your decision whether to exercise these rights or pursue these remedies. **This guide is not intended to provide legal advice or replace advocacy services.**

Sexual assault occurs in marriages, dating relationships, families, work places, schools, and in many other contexts. Sexual assault includes rape, human trafficking, unwanted sexual touching, sexual harassment, unwanted sexual comments, and many other forms of sexual violence. People are sexually assaulted regardless of age, race, class, gender, ability, and sexual orientation.

In the United States, nearly 1 in 5 women and 1 in 71 men have been raped in their lifetime. Nearly 1 in 2 women and 1 in 5 men have experienced sexual violence victimization other than rape at some point in their lives.

If you need legal advice, you should contact an attorney.

Information about contacting an attorney is on page 15.

If you need advocacy services, a list of sexual assault advocacy programs is in the back of this guide or you can call the Kansas Crisis Hotline at **1-888-END ABUSE (1-888-363-2287)** anytime for more information.

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Advocacy Services

If you are a survivor of sexual assault, a sexual assault advocacy program can provide you with support and assistance. These programs offer services 24 hours per day, seven days a week. Their services include crisis hotlines, safety planning, information and referrals, criminal justice advocacy, civil court advocacy, hospital advocacy, personal advocacy, assistance with transportation, assistance with crime victims' compensation, assistance with protection orders, and more.

Advocacy services may be especially helpful if you are involved in the legal system. Sexual assault advocates can provide support and information throughout the legal process. Advocates can go with you to court hearings, hospital emergency rooms, and police stations.

All of these services are free and confidential. Any information you share with a sexual assault advocacy program is private and cannot be shared with anyone outside the organization, unless:

1. They are required to disclose the information by law. For example, an advocate may disclose certain information in order to comply with mandatory reporting requirements as discussed on page 13; or
2. You choose to sign an informed, written, time-limited release allowing them to disclose the information.

A list of sexual assault advocacy programs and their contact information is in the back of this guide. You can also call the Kansas Crisis Hotline at 1-888-END ABUSE (1-888-363-2287) for information about the sexual assault advocacy program nearest you.

For more information about advocacy services, you can contact the Kansas Coalition Against Sexual and Domestic Violence at 785-232-9784 or by visiting www.kcsdv.org.

Safety

Your personal safety is important. A sexual assault advocate can discuss your safety with you and help you create plans to respond to dangerous situations. Part of this safety plan may include using laws designed to protect your safety, such as getting a protection order or enrolling in the Address Confidentiality Program. These legal protections are only pieces of a larger safety plan. While this guide will discuss legal protections, your safety may also include emotional and psychological considerations that an advocate can help you with. Your emotional safety is just as important as any legal protection.

Protection Orders

A protection order (often referred to as a “no contact order”) is a court order intended to protect victims of abuse and stalking. Under Kansas law, there is no specific protection order for survivors of sexual assault. Sometimes, survivors of sexual assault may qualify for a Protection from Abuse order (PFA) or a Protection from Stalking order (PFS). An attorney or an advocate can assist you in filing for a PFA or a PFS, or you can file on your own.

If you are thinking about filing for a PFA or a PFS on your own, consider talking with an advocate first. An advocate can discuss how filing for a protection order may affect your safety and privacy. You may also want to review the Protection Order Guided Interview found by clicking on the link at this webpage: <http://www.kcsdv.org/resources/brochures/criminal-justice/po-guided-interview.html>.

Protection from Abuse Order (PFA)

A PFA is a civil court order that prohibits the perpetrator from abusing you. It is different from a no-contact order issued in a criminal case. The prohibited abuse includes sexual abuse and sexual violence. The order will likely direct the perpetrator

to have “no contact” with you. The court also has the power to order other things to help keep you safe. For example, the court may order that your address or telephone number be kept confidential.

In order to qualify for a PFA you must have one of the following relationships with the perpetrator: you are living together; you have lived together in the past; you are the parent of or living with a child who has been harmed by the perpetrator; you have a child together; you are dating; or you have dated in the past. Many survivors of sexual assault may not be able to prove the relationship requirement necessary to get a PFA. If you and the perpetrator are not intimate partners or household members, you will not qualify for a PFA.

You must also prove that the perpetrator has done at least one of the following: purposely tried to harm you or a child physically; purposely or carelessly caused your or a child physical harm; purposely caused you or a child to fear that physical harm is about to happen; or participated in certain sexual behaviors with a child under 16 years of age who is not the perpetrator’s spouse.

Protection from Stalking Order (PFS)

A PFS is a court order that prohibits the perpetrator from following, harassing, or contacting you. The court can also order other things to ensure your safety. The court is required to not share your address and telephone number with the defendant or publically; they are to be kept confidential.

In order to qualify for a PFS, you must prove the perpetrator is stalking you. This means you have to prove the perpetrator has intentionally engaged in a knowing and intentional course of conduct directed at you that seriously alarms, annoys, torments, or terrorizes you. This conduct must serve no legitimate purpose

and must place you in reasonable fear for your safety. It must also consist of two or more separate acts over time that show a continuity of purpose, which would cause a reasonable person to suffer substantial emotional distress.

The Protection Order Guided Interview found by clicking on the link at this webpage: <http://www.kcsdv.org/resources/brochures/criminal-justice/po-guided-interview.html> can give you more information about PFA or PFS orders, or you can contact an advocate or an attorney to help you.

Safe At Home Program (Address Confidentiality Program)

As a survivor of sexual assault, you are eligible to enroll in the Safe At Home program. This program provides a substitute address and free mail forwarding service for survivors of sexual violence, domestic violence, human trafficking, and stalking. This address is a post office box number that you can use for your driver's license, voter registration, and school enrollment. The goal of the Safe At Home program is to prevent the perpetrator from discovering your current address.

You must work with an enrolling agent to apply for the Safe At Home program. Many sexual assault advocacy programs are enrolling agents and have enrolling assistants who can help you with the application. The enrolling assistant can discuss the benefits and limitations of this program. For a list of current enrolling agents, visit the website at www.sos.ks.gov/safeathome, email safeathome@sos.ks.gov, or call (785) 296-3806.

Medical Care

Sexual Assault Medical Forensic Exam

A sexual assault medical forensic examination is an exam performed by a physician, a specially trained nurse, or a specially trained physician's assistant. Some hospitals or emergency departments have a certified Sexual Assault Nurse Examiner (SANE) or Sexual Assault Forensic Examiner (SAFE) who will perform the exam. However, any emergency department can provide emergency medical services or treatment.

The medical professional will address your health care concerns, provide any necessary medical treatment, and collect samples and other evidence related to the sexual assault from your body and clothing. Although not required, it is recommended that you do not bathe or shower or do anything that may remove evidence from your body or clothing in order to keep evidence from being damaged.

The sexual assault forensic exam is conducted using a kit provided to the health care provider by the Kansas Bureau of Investigation (KBI). The cost of the exam conducted using this kit is free to you. The county where the assault occurred is responsible for the costs of the exam. Health care providers may take steps to protect your privacy and identity when billing the county for the exam, although there is no guarantee. If you have concerns about this process, you should discuss them with the health care provider or a sexual assault advocate.

It is important to know that you may be responsible for healthcare costs such as medication or treatment for injuries that are not covered under the sexual assault forensic examination process. In certain circumstances, you may be eligible for crime victims' compensation to help recover those medical costs and other expenses. See pages 20-21 for more information.

You do not have to report the sexual assault to law enforcement

to get a sexual assault medical forensic exam. The hospital should not contact law enforcement without your written permission and consent. However, health care providers are still required to comply with mandatory reporting requirements. This means that health care providers must report child abuse, abuse of vulnerable adults, and certain wounds regardless of whether you give consent or not. See page 13 for more information on mandatory reporting.

If you decide to report the sexual assault to law enforcement, the health care provider will give the forensic evidence and samples to law enforcement. If you are not reporting to law enforcement, the box containing the evidence and samples will be sealed and marked with a unique number to protect your identity and privacy and sent to the KBI for storage. The KBI will store the evidence for five years. This gives you some time to decide whether you want to report the sexual assault while preserving the evidence collected. The KBI will not know your name. The evidence will not be analyzed by any crime lab unless you file a report with law enforcement and they request that it be processed.

A sexual assault advocate can be present during the sexual assault forensic examination to provide you support through the process. The health care provider should offer advocate services to you or you can request that a sexual assault advocate be present.

A list of Kansas hospitals or emergency departments that have a SANE or SAFE can be found at this website: www.kcsdv.org/find-help/in-kansas/sane.html. However, any emergency department can provide emergency medical services or treatment.

Survivors of sexual assault often worry about sexually transmitted infections (STIs), pregnancy, and other health concerns. You

should speak with a health care provider about these concerns.

You can ask for information about medications that will help prevent STIs. Your health care provider can give you a combination of medicines to help prevent the onset of many STIs, including HIV. You may want to ask your health care provider about this option.

You can also ask your health care provider about emergency contraception. This is a medication designed to prevent pregnancy after intercourse. You may have heard emergency contraception referred to as the “morning after pill.” This medication does not require a prescription and can be taken up to five days after intercourse. It is most effective when taken within 72 hours. Not all pharmacies and hospitals carry this medication and it may not work for everyone. For more information about emergency contraception, contact your health care provider or your local sexual assault advocacy program.

Privacy

Protecting your privacy may be a major concern for you. There are different legal options designed to protect your privacy. However, none of these can provide an absolute guarantee that your information will be protected. One exception to many privacy protections is mandatory reporting laws. If you have specific concerns about your privacy, you should contact an attorney for more information.

Privacy in the Legal System

If you choose to participate in the legal system, it is likely that information you provide to legal officials, such as law enforcement, prosecutors, judges, and other court officials, will become public record and knowledge. However, the court has the discretion to keep public records private (seal the record) or remove private information in legal cases where protecting your privacy interests outweigh the public's interest. You may consider asking the court to seal any legal documents related to the sexual assault or remove your name and identifying information. The court determines whether or not to seal this information. An attorney can help you with this process.

There are other laws designed specifically to protect your privacy. Kansas has a "rape shield law" that, in most circumstances, prevents information about your previous sexual conduct from being introduced into evidence in a sex crimes case.

You should also try to stay aware of the information other people provide to the court that becomes public record. For example, the perpetrator of the sexual assault may provide information about you to the court. The perpetrator may also try to access your mental health or health care records and introduce them into evidence. You may want to work with an attorney to file a motion with the court to have any of that type of information sealed or redacted. Your own private attorney can help you with this process and in protecting your privacy interests.

Privilege

Privilege is a legal safeguard designed to protect your privacy interests. Under Kansas law, privileged communications include communications with your attorney, physician, spouse, and ordained minister. If any of these people testify in court, you may be able to “assert your privilege” and prevent them from testifying. However, there are exceptions to privilege and you may waive your privilege without knowing. You should contact an attorney for more information about privilege laws in Kansas.

Confidentiality of Advocacy Services

If you choose to use advocacy services, the sexual assault advocacy program must maintain your privacy and confidentiality except in limited circumstances. Under federal law, sexual assault advocacy programs are required to provide confidential services to their clients. Advocates cannot release any information about you unless you have voluntarily signed an informed, written, time-limited release to the information or the release of information is required by law. If for some reason the sexual assault advocacy program cannot protect your confidentiality, such as in a case where a mandatory report is required, the program should make attempts to notify you before making any disclosure.

Other Privacy Protections

The Health Information Portability and Accountability Act (HIPAA) protects certain medical records, but it does not provide a guarantee that your medical records are completely private.

If you are a student, federal law prohibits your school from disclosing information in your records without your written permission, but this protection also has limitations.

Many other laws have privacy protections. For more information about these laws and their limitations, you should contact an attorney.

Mandatory Reporting

Many professionals may not be able to ensure your privacy because of mandatory reporting requirements. Under Kansas law, some professionals, such as health care providers, licensed social workers, licensed therapists, and others, are mandated reporters of child abuse and abuse of vulnerable adults, which includes sexual assault. Health care providers are also required to report gunshot wounds and life-threatening stab wounds to law enforcement.

If you are under the age of 18, mandated reporters of child abuse are required to report to the Department for Children and Families (DCF) when they have reason to suspect that you were harmed because of sexual abuse. When DCF receives a report, it will determine whether an investigation is needed. If it decide to investigate, DCF will notify your parents of the report and conduct an investigation. DCF is required to notify local law enforcement or the local prosecutor when they receive a report of sexual abuse of a child.

Mandated reporters of abuse of vulnerable adults are required to report abuse to DCF, including sexual abuse of vulnerable adults that are harmed or threatened with harm. A vulnerable adult is a person 18 years of age or older who is unable to protect his or her own interests because of a physical, emotional, or mental impairment that limits his or her ability to manage personal, home, or financial affairs. Sexual assault advocates are not mandated to report sexual assaults of vulnerable adults. However, there may be some exceptions. You should discuss mandatory reporting requirements with your sexual assault advocate prior to receiving services.

If you have received an injury from a gun or a life threatening injury from a knife or other pointed device, health care providers are required to report that injury to local law enforcement.

This includes bullet wounds, gunshot wounds, powder burns, other injuries caused by the discharge of a firearm, and any life-threatening wound caused by a knife, ice pick, or other sharp or pointed instrument.

There may be city ordinances passed locally that require other injuries be reported to law enforcement.

If a state law or city ordinance does not require a mandatory report, you should be able to access services without fear of law enforcement or DCF being notified. If you are concerned, you should discuss this with the service provider before sharing information. You should ask them what privacy protections they have in place and let them know that you do not want your information to be shared.

Contacting an Attorney

Contacting an attorney can be confusing. You may not know if you need an attorney or what type of attorney you should contact. It may be helpful for you to have your own private attorney to help you understand and use your rights and legal tools, or to navigate the criminal justice system.

If you are already working with a prosecutor (for example, a county or district attorney) on a criminal case, that prosecutor is not “your attorney”—she or he represents the state of Kansas, not you. While this prosecutor may be helpful to you, the prosecutor’s duty is to prosecute the crime on behalf of the state. Also, the prosecutor must share certain information with the defendant (the accused person in the criminal case) or the defendant’s attorney.

The Kansas Lawyer Referral Service can help you decide if you need an attorney and can refer you to the type of attorney you need. Any information you share with the Kansas Lawyer Referral Service will be kept confidential. You can contact the Kansas Lawyer Referral Service by calling 1-800-928-3111.

Kansas Legal Services (KLS) may also be able to assist you. KLS is a statewide non-profit organization that provides attorneys at no cost or reduced cost to people who meet income eligibility requirements. You can contact KLS at 1-800-723-6953 or www.kansaslegalservices.org.

An advocate cannot provide legal advice, but can provide helpful information about your rights and resources. Your local sexual assault advocacy program may also be able to refer you to an attorney, if needed. A list of sexual assault advocacy programs is in the back of this guide or you can call the Kansas Crisis Hotline at **1-888-END ABUSE (1-888-363-2287)** anytime for more information.

Employment

Many survivors of sexual assault have concerns about and fear losing their jobs. You may need to take time off work or address safety concerns in the workplace. It may be difficult to concentrate or to get work done. There are legal protections to help with some of these concerns.

Time Away from Work

Survivors of sexual assault often need to take time away from work. Kansas law requires employers to provide survivors of sexual assault or domestic violence with at least eight days of leave each calendar year *for any of the following reasons*:

- obtaining or trying to obtain a restraining order or similar injunctive relief for yourself or your children;
- seeking medical care for injuries resulting from sexual assault or domestic violence;
- obtaining services from a sexual assault or domestic violence advocacy program; or
- appearing in court proceedings related to sexual assault or domestic violence.

Your employer cannot discharge, discriminate, or retaliate against you for taking this time away from work.

If you wish to take this leave, you should provide your employer with advance notice. Then, you must provide the documentation of why you needed to take this leave within 48 hours after returning to work.

If you cannot provide your employer with advance notice, you must provide documentation of the reason for your absence within 48 hours from the time you were first absent. The following types of documentation are allowed:

- a police report indicating that you are a victim of sexual assault or domestic violence;

- a court order protecting or separating you from the perpetrator of an act of sexual assault or domestic violence, or other evidence from the court or prosecutor that you appeared in court; or
- documentation from a medical professional, sexual assault or domestic violence advocate, health care provider, or counselor that you received treatment for physical or mental injuries caused by sexual assault or domestic violence.

The Kansas Department of Labor, www.dol.ks.gov, is in charge of enforcing this law and can provide information on enforcement and filing a complaint.

Family Medical Leave Act

You may suffer from a serious health condition because you were sexually assaulted. If that condition involves an injury, illness, or impairment that requires inpatient care, or continuing treatment by a medical provider, you may be able to take up to twelve weeks of unpaid leave under the Family Medical Leave Act (FMLA).

You must meet all of the following requirements to qualify for this leave:

- your employer employs at least 50 employees;
- you have worked for your employer for the past twelve months;
- you have worked at least 1,250 hours in the previous twelve months; and
- you suffer from a serious health condition.

If you have questions or would like more information about FMLA, contact an attorney or the United States Department of Labor, Wage and Hour Division, www.dol.gov/whd/fmla.

Sexual Harassment

When a sexual assault happens during work time, or when a supervisor or co-worker commits a sexual assault, the sexual assault may be considered sexual harassment. Federal law prohibits sexual harassment in the workplace. It is your employer's duty to make sure that your workplace is free from sexual harassment and other forms of sex discrimination.

If you report a sexual assault to your employer, they should take steps to address the situation. If your employer does not adequately respond or retaliates against you for reporting the sexual assault, you may be able to sue your employer civilly under federal law.

You should speak with an attorney for more information about this type of claim. For more information, you can also contact the Kansas Human Rights Commission, www.khrc.net or the Equal Employment Opportunity Commission, www.eeoc.gov.

Workers' Compensation

If the sexual assault occurred while you were working, you may be able to receive Workers' Compensation benefits for injuries, medical bills, and lost wages. For more information about Workers' Compensation, you should contact an attorney or the Kansas Department of Labor, www.dol.ks.gov.

Unemployment Insurance

If your employment has ended because of a sexual assault, you may be entitled to unemployment insurance benefits in certain circumstances. Even if you quit your job because of a sexual assault, you may still be eligible for benefits if you left for one of the following reasons:

- a health care provider advised you to do so because of illness or injury;

- working conditions were dangerous to your physical or mental well-being;
- your employer or another employee was harassing you;
- you suffered a personal emergency; or
- you, your spouse, or your child experienced domestic violence.

In order to qualify for unemployment insurance benefits, you will have to provide a variety of information to the Kansas Department of Labor. For more information, you can contact an attorney or the Kansas Department of Labor, www.dol.ks.gov.

Financial

Crime Victims' Compensation

In certain circumstances, the Kansas Crime Victims Compensation Board provides financial assistance to victims of sexual assault for expenses such as loss of earnings and out-of-pocket loss for injuries sustained as a direct result of sexual assault. You may receive a maximum of \$25,000 in compensation, but any amount you are awarded must be reduced by amounts received or amounts that you expect to receive from other sources, such as:

- restitution from the offender;
- employee benefits, health insurance, workers' compensation, or other insurance; or
- public funds, such as Social Security or funds from DCF.

The expenses that Crime Victims Compensation may cover include reasonable medical care, including medical care provided during a sexual assault examination, mental health counseling, and other services that are necessary as a result of the sexual assault. You may also be compensated for clothing and bedding seized as evidence during the sexual assault investigation. However, other personal property loss is not covered.

To receive Crime Victims Compensation, you must meet certain eligibility requirements, including:

- The crime must be reported within 72 hours to the law enforcement agency in the city or county where the crime was committed unless there was a good cause for not reporting.
- You must cooperate with law enforcement throughout the criminal justice investigation and process.
- You must file a crime victims compensation claim within two years of the incident. In cases of child sexual assault, the claim must be filed within two years from the date the crime was reported to law enforcement.
- In cases other than sexual assault, your economic loss

must exceed \$100 in order to qualify. Sexual assault cases are not limited by this.

For more information, contact your local sexual assault advocacy program or the Kansas Crime Victims Compensation Board, www.ag.ks.gov/victim-services/victim-compensation.

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ducation

Sexual assault affects many students. If you are a survivor of sexual assault and a student, you may have concerns about your education that are related to the sexual assault. For example, you may have difficulties concentrating on your schoolwork or you may no longer feel safe on your campus or at your school. Your school may be able to help address some of these concerns.

Every school or university who receives federal funding is required to publicize a policy prohibiting sex discrimination, as required by federal law under Title IX. This policy must include the school's procedure for handling complaints of sex discrimination, sexual harassment, and sexual violence, which includes sexual assault. In addition, federally funded schools and universities are legally required to make public the contact information of the school's Title IX coordinator, who manages complaints; work to prevent sexual violence, investigate claims of sexual violence independently, regardless of law enforcement involvement; and provide an appropriate response to sexual violence.

Your school can respond to sexual violence in a number of different ways, including providing accommodations to meet your academic needs, even before an investigation is started. If you are struggling in school, you can ask your school to change your class schedule or to postpone your exams. If you are attending a college or university, you can also ask to take a temporary leave of absence.

If the perpetrator is an employee of the school or is another student, your school can limit the perpetrator's contact with you by removing that person from your class (pending a full investigation); adjusting your schedule; or transferring you to a different class. You may also want to transfer to another school.

In order to receive any of these accommodations from your

school, you will likely be required to disclose in a report to school authorities that you were sexually assaulted. Schools are required to investigate sexual assault independent of law enforcement or any other authority. Your school should work with you to protect your privacy. The perpetrator also has a right to privacy if that person is a student, and this may affect the way your school responds to the sexual assault. These privacy protections are not a guarantee. If you are under the age of 18, you should also know that teachers, school administrators, and other school employees are all mandated reporters of child abuse. See page 13 for more information about mandatory reporting. Some colleges and universities may require faculty and staff to report suspected sexual assault regardless of a student's age.

If you attend a college or university, your school may have a school-specific disciplinary procedure to address student behavior involving sexual assault or other conduct. Each school's disciplinary procedure is different and often includes a hearing, but there are certain things every school is required to do. For example, you should be able to have a support person with you during these disciplinary proceedings if the other person is allowed a support person. This means that if the perpetrator has an attorney or support person present, you should be allowed to have an attorney or support person with you. In addition, when the school or university makes a decision about the complaint, both you and the perpetrator have the right to be informed of the outcome.

If you have additional questions about your educational rights following a sexual assault, you should contact an attorney.

Survivors with Disabilities

Both government agencies and places of public accommodation are required to make sure that you can access their facilities, services, and materials. If you are a survivor of sexual assault with a disability, you have a right to access the services, programs, and activities provided by government agencies; such as police stations, courthouses, county health agencies, public housing agencies, and public transportation providers.

You are also entitled to access services, products, facilities, and benefits provided by places of public accommodation. Places of public accommodation are non-profit organizations or private businesses that provide goods or services to the public. Hospitals, sexual assault advocacy programs, doctor's offices, restaurants, and hotels are all places of public accommodation, but private clubs and religious organizations are not.

These organizations must make reasonable accommodations so that services are accessible to you. If you need accommodations in order to access services, you should let the organization, agency, or business know. You should not be asked to pay extra for the accommodations.

For more information about your rights related to a disability, you can contact an attorney; the Kansas Association of Centers for Independent Living, www.kacil.org; or the Disability Rights Center of Kansas, www.drckansas.org.

Language Access

You may be entitled to free language assistance if you are deaf, hard of hearing, speech impaired, or if English is not your first language and your ability to read, write, speak, or understand English is limited. Organizations or agencies that receive federal funds are required to take steps to provide you access to their services if you have limited English proficiency. This includes law enforcement agencies, courts, hospitals, sexual assault advocacy programs, and many other agencies.

Also, if you are involved in a court proceeding in Kansas, you have the right to a qualified interpreter. The court is required to pay the interpreter fees. You should not be asked to pay for the interpreter's services.

If you need assistance in advocating for your right to language access and assistance, please contact your local sexual assault advocacy program. A list of sexual assault advocacy programs is in the back of this guide or you can call the Kansas Crisis Hotline at **1-888-END-ABUSE (1-888-363-2287)** any time for more information.

/mmigration

Accessing Services

If you were not born in the United States, you may have some concerns about your immigration status and the impact it may have on your ability to receive services. Anyone can receive services related to emergency health and safety, regardless of their immigration status. This includes emergency medical services, law enforcement assistance, shelter, and protection orders. If someone asks about your immigration status when you seek these services, you do not have to answer. Police do not enforce immigration laws in most situations. However, some police departments may share your information with Immigration and Customs Enforcement (ICE), a branch of the Department of Homeland Security that is responsible for enforcing immigration laws. If the police insist on asking about your immigration status, ask to speak with an attorney before answering any questions.

U Visa

If you are an immigrant survivor of sexual assault, you may be eligible for the U Visa, which is for victims of crime. The U Visa could help you get lawful status in the United States if you do not already have it.

To be eligible for a U Visa, you must:

- have been a victim of a crime that happened in the United States;
- have suffered substantial mental or physical harm because of the crime;
- have information about the crime; and
- be helpful with the investigation or prosecution of the crime.

This requires you to report the crime and work with law enforcement or prosecutors on the investigation or prosecution. You should only consider applying for a U Visa if you believe it

will be safe to do so. The process for obtaining a U Visa can take several months to years.

If you qualify for a U Visa, you may request work authorization and may eventually apply for lawful permanent residency (a green card). You may also be able to apply for a U Visa for your spouse, children, and if you are under the age of 21, your parents and minor, unmarried siblings.

If you think that you may qualify for a U Visa, you should contact an immigration attorney or certified Board of Immigration Appeals representative.

Other Immigration Options

In addition to the U Visa, you may be able to benefit from other immigration laws such as the T Visa or the VAWA self-petition.

To qualify for the T Visa, you must be a victim of human trafficking, which may include:

- being forced to work against your will to pay off a debt;
- being abused by your employer, including sexual or physical abuse;
- being forced to work in the sex industry; or
- being under the age of 18 and in the sex industry.

The T Visa also requires that you cooperate with law enforcement or prosecutors.

To qualify for the VAWA self-petition, you must be married to, or the child of, a United States citizen or lawful permanent resident (green card holder) who has abused you or your child. This may also allow you to get permission to work legally and apply to become a lawful permanent resident.

There are other requirements and things to consider for both the T Visa and the VAWA self-petition, so it is important that you work with an immigration attorney or certified Board of Immigration Appeals representative when pursuing any of these remedies.

For more information about these remedies or assistance with locating an attorney or certified Board of Immigration Appeals representative, you should contact the Kansas Coalition Against Sexual and Domestic Violence, www.kcsdv.org.

The Criminal Justice System

To Report or Not To Report

It is your decision whether to report a sexual assault to law enforcement or not. Remember, if you decide not to report, you can still seek advocacy services, medical care, and other legal remedies. If you do decide to report, you do not have to go through the process alone. A friend, relative, or sexual assault advocate can be with you to provide support.

It is important that you know what to expect from the criminal justice system. The information you provide to authorities like law enforcement, prosecutors, or victim witness coordinators is not confidential. In fact, it may become part of a public record. Understanding the impact on you of the information you choose to share is important when working with criminal justice professionals. For more information about your privacy rights, see page 11.

The criminal justice system can be confusing at times, and it moves slowly. It may take many months or even years before your case is resolved. Below is a brief overview of what to generally expect. Local practices can vary. A sexual assault advocate in your area can help you better understand the process in your community and provide you with support.

Investigation

If you report a sexual assault to law enforcement, you will be asked questions about the assault. You may be asked to have a sexual assault forensic exam. It is your choice whether to have the exam or not. See pages 8 for more information about sexual assault forensic exams. During the investigation, law enforcement may ask some difficult questions. They may interview you many times. Kansas law prohibits law enforcement from asking you to take a polygraph exam (lie-detector test) in order to move forward with the investigation. See page 30 for

more information. After law enforcement has completed the investigation, they will send the information to the prosecutor.

Prosecution

The prosecutor determines whether to move forward with filing charges against the perpetrator and proceeding with prosecution. If the prosecutor chooses not to file charges, it does not necessarily mean that she or he does not believe you. The prosecutor considers all the evidence as well as other factors when deciding whether to prosecute a case. Sometimes, this means the prosecutor will file charges even if you do not want this to happen. It may take a long time before you know whether the prosecutor is moving forward or not. It is important to have information about the court case and proceedings. Many Kansas prosecutor offices have a victim-witness coordinator or other designated staff person who can assist you. A sexual assault advocate can also help you with this process.

Remember, the prosecutor is not your attorney—she or he represents the state of Kansas, not you. It may be helpful to have your own private attorney or a sexual assault advocate to help you navigate the criminal justice system. See page 15 for more information about contacting an attorney.

Use of Truth-Telling Devices Prohibited

If you are reporting the sexual assault to authorities, law enforcement officers and other officials such as a prosecutor will likely interview you. During the interview process, no government officials, including law enforcement and prosecutors, can make you take a polygraph examination, most commonly known as a lie-detector test, in order to determine whether to move forward with the investigation, charging, or prosecution of the crime.

Notification Requirements

Some professionals working in the criminal justice system are required to notify you when certain events will occur or have occurred in a case. If you would like to receive these notifications, it is important to keep your contact information up to date because notification may be in the form of a letter sent to your last known address. The victim-witness coordinator, prosecutor, or sexual assault advocate should be able to provide you with information about who you need to give your contact information to in order to receive notification.

Notification of Right to be Present at Public Hearings

The law requires that you must be notified of your right to be present at any public hearing any time the defendant has the right to appear and be heard. This includes, but is not limited to: preliminary hearings; trials; sentencing hearings; sentencing modification hearings; parole public comment sessions; and expungement hearings. If you provide your contact information to the prosecutor or municipal court clerk, they should provide you with this notification. In order to continue to receive notices, make sure to keep your contact information up to date.

Notification of Dismissal of Charges or Plea Agreements

The prosecutor is required to notify you before dismissing charges against the defendant and when deciding not to file charges. The prosecutor must provide you with information about any proposed plea agreements and notify you of your right to be present at a hearing where the plea agreement is reviewed or accepted. You may submit a written statement to the court before the date of the hearing. The prosecutor must have your current contact information in order to notify you of these court dates.

Notification of Motion to Depart from Presumed Sentence

In felony cases, the prosecutor is required to notify you when there is a motion to depart from the presumed sentence. This

means that you should receive notification if someone asks that the defendant be sentenced to a punishment that is less severe than what is recommended by Kansas law. If you would like to receive this notification, make sure that the prosecutor has your current contact information.

Notification of Release, Death, or Escape

If the defendant is sentenced to prison, the Kansas Department of Corrections has the responsibility to notify you prior to release on parole, conditional release, expiration of sentence, or post-release supervision, or upon death. You must file your address with the Department of Corrections Office of Victim Services in order to receive this notification and keep your information up to date. The best way to do this is by completing a Victim Notification Request. For more information, contact the Kansas Department of Corrections Office of Victim Services, www.doc.ks.gov/victim-services.

Kansas VINE

Kansas Victim Information and Notification Everyday (VINE) is a service provided through the collaboration of the Kansas Department of Labor, the Office of the Attorney General and the Kansas Sheriffs' Association. The VINE system allows victims of crime to use the telephone or Internet to search for information regarding the custody status of their offender and to register to receive telephone and email notification when the offender's custody status changes. Kansas VINE is a service specific to offenders in county custody.

The VINE toll-free number is (866) 574-8463.

Victim Impact Statements

You have the right to be heard by the court before the defendant is sentenced. You can request that the court let you make a victim impact statement at the defendant's sentencing, which you can

do in writing or verbally. A court services officer may contact you for victim impact information as part of the pre-sentence investigation, which is a standard part of the sentencing process. While the Pre-Sentence Report will be public record, your statements and psychological and substance abuse reports, if you have shared any, must be kept confidential, with the exception of that it will be accessible to the attorney for the state, the counsel for the defendant, the sentencing judge, and the Department of Corrections if requested.

Restitution

As part of the defendant's sentence, the court may order the defendant to pay you for losses you have suffered as a result of the defendant's criminal behavior. You may be asked to give them this information for the Pre-Sentence Report. After the defendant is found guilty, a request can be made to the court to hold a separate hearing to determine the amount of restitution the defendant is required to pay to you. Keep in mind that you may not receive the court ordered restitution if the defendant is sentenced to prison time, or does not have the financial means to pay it.

Kansas Crime Victims Bill of Rights

Kansas passed the Crime Victims Bill of Rights, below, to further empower victims and survivors in demanding their rights. These may be helpful to you if you are involved in a criminal case.

- 1. Victims should be treated with courtesy, compassion, and with respect for their dignity and privacy and should suffer the minimum of necessary inconvenience from their involvement with the criminal justice system.*
- 2. Victims should receive, through formal and informal procedures, prompt and fair redress for the harm which they suffered.*
- 3. Information regarding the availability of criminal restitution, recovery of damages in a civil cause of action, the crime victims compensation fund, and other remedies and the mechanisms to obtain such remedies, should be made available to victims.*
- 4. Information should be made available to victims about their participation in criminal proceedings and the scheduling, progress, and ultimate disposition of proceedings.*
- 5. The views and concerns of victims should be ascertained and the appropriate assistance provided throughout the criminal process.*
- 6. When the personal interests of victims are affected, the views or concerns of the victim should, when appropriate and consistent with criminal law and procedure, be brought to the attention of the court.*
- 7. Measures may be taken when necessary to provide for the safety of victims and their families and to protect them from intimidation and retaliation.*

8. *Enhanced training should be made available to sensitize criminal justice personnel to the needs and concerns of victims and guidelines should be developed for this purpose.*
9. *Victims should be informed of the availability of health and social services and other relevant assistance that they might continue to receive the necessary medical, psychological and social assistance through existing programs and services.*
10. *Victims should report the crime and cooperate with law enforcement authorities.*

Conclusion

Remember, you are not alone. Sexual assault can impact your life, but there are people who can help you. The contact information for the nearest sexual assault advocacy program is at the end of this guide, and you can always reach an advocate at **1-888-END-ABUSE (1-888-363-2287)**.

If you think that you could benefit from any of the laws discussed in this guide, or if you have other legal needs, you should contact an attorney for more information.

This guide may not have addressed all of your legal concerns. If you have are married or have children, you may have family law concerns. Survivors of sexual assault may have housing concerns as well. You may want to pursue a civil lawsuit against the perpetrator or a third party that may be responsible. Contacting an attorney can help you learn the full extent of your legal rights as a survivor of sexual assault. You can then make your own informed choices about how to respond and how to begin your healing.

References

The laws and resources referred to in each of these sections are listed below.

A Guide for Survivors of Sexual Assault in Kansas Black, M.C., Basile, K.C., Breiding, M.J., Smith, S.G., Walters, M.L., Merrick, M.T., Chen, J., & Stevens, M.R. (2011). *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

Advocacy Services 42 U.S.C. § 13925(b)(2)

Privacy 20 U.S.C. § 1232g; 42 U.S.C. § 13925(b)(2); K.S.A. 21-5502; K.S.A. 21-6319; K.S.A. 38-2223; K.S.A. 39-1430; K.S.A. 39-1431; K.S.A. 45-221(a)(47); K.S.A. 60-426 to -429; K.S.A. 60-2617; K.S.A. 77-501, *et seq.*; 45 C.F.R. Parts 160, 162 & 164

Safety K.S.A. 60-3101, *et seq.*; K.S.A. 60-31a01, *et seq.*; K.S.A. 75-451 to -458

Employment 29 U.S.C. 2601, *et seq.*; 42 U.S.C. § 2000e, *et seq.*; K.S.A. 44-501, *et seq.*; K.S.A. 44-701, *et seq.*; K.S.A. 44-1131 to -1132

Financial K.S.A. 74-7305; K.A.R. 20-2-3; K.A.R. 20-2-6; K.A.R. 20-2-9; K.A.R. 30-4-64

Education 20 U.S.C. § 1092(8)(b)(iv); 20 U.S.C. § 1681, *et seq.*; 20 U.S.C. § 6301, *et seq.*; 34 C.F.R. § 106.8(a)

Survivors with Disabilities 42 U.S.C. § 12101, *et seq.*

Language Access 42 U.S.C. § 2000d, *et seq.*; K.S.A. 75-4351

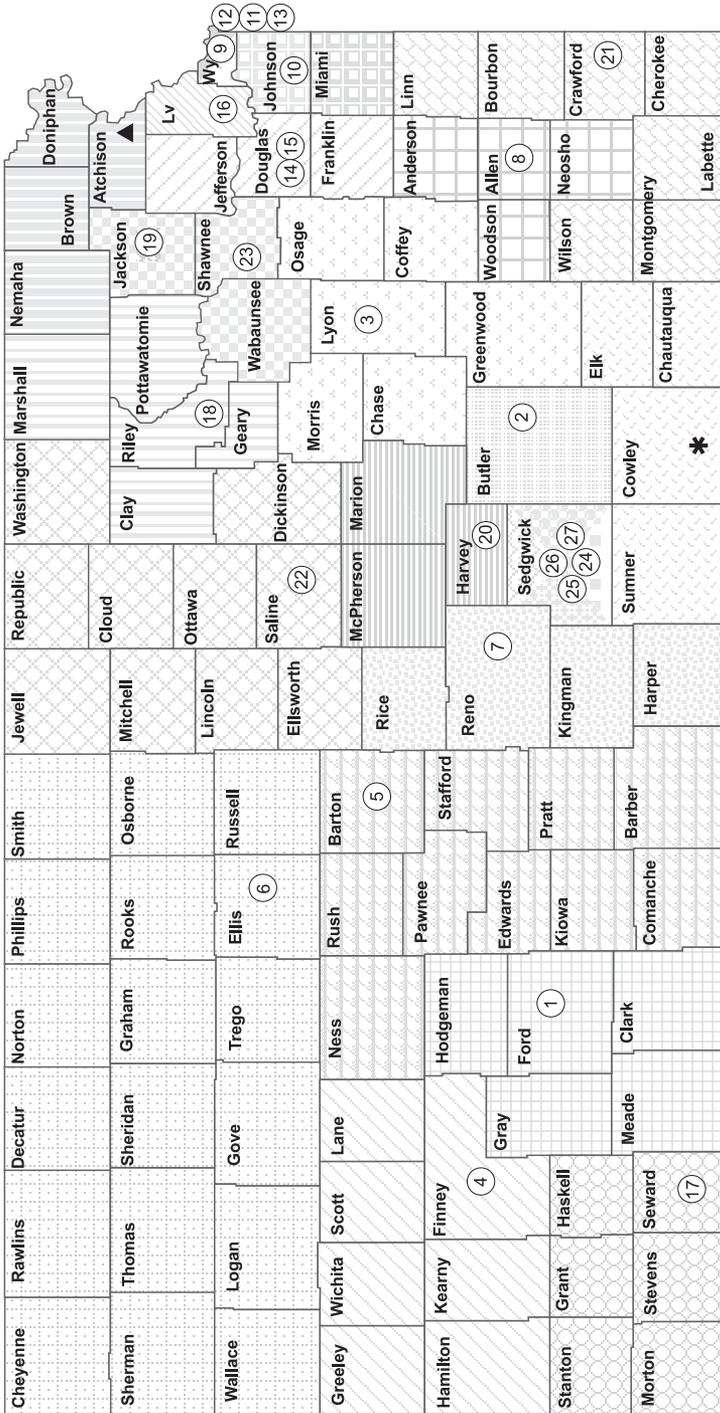
Immigration 8 U.S.C. § 1101(a)(15)(T); 8 U.S.C. § 1101(a)(15)(U); 8 U.S.C. § 1154; Att’y Gen. Order No. 2049-96, 61 Fed. Reg. 45,985 (Aug. 30, 1996), *available at* <http://www.usdoj.gov/archive/opd/agorderf.htm>.

Medical Care K.S.A. 65-448

The Criminal Justice System K.S.A. 21-6604; K.S.A. 21-6703; K.S.A. 21-6607; K.S.A. 21-6813; K.S.A. 21-6817(a)(1); K.S.A. 22-3718; K.S.A. 22-3424; K.S.A. 22-3727; K.S.A. 22-4614; K.S.A. 74-7335.

Kansas Crime Victims Bill of Rights K.S.A. 74-7333

Kansas Domestic and Sexual Violence Victim Services



DV = Domestic Violence Advocacy Services SA = Sexual Assault Advocacy Services

City	Services	Kansas Advocacy Programs	Crisis Hotline Numbers
1. Dodge City	DV/SA	Crisis Center of Dodge City	866-270-2270 or 620-225-6510
2. El Dorado	DV/SA	Family Life Center Safe House	800-870-6967 or 316-321-7104
3. Emporia	DV/SA	SOS, Inc.	800-825-1295 or 620-342-1870
4. Garden City	DV/SA	Family Crisis Services	620-275-5911
5. Great Bend	DV/SA	Family Crisis Center	866-792-1885 or 620-792-1885
6. Hays	DV/SA	Options: Domestic and Sexual Violence Services, Inc.	800-794-4624 or 785-625-3055
7. Hutchinson	DV/SA	Sexual Assault/Domestic Violence Center	800-701-3630 or 620-663-2522
8. Iola	DV/SA	Hope Unlimited	620-365-7566
Kansas City Metro			
9. Wyandotte Cnty	DV	Friends of Yates - Della Gill/Joyce H. Williams Center	913-321-0951
10. Johnson Cnty	DV	Safehome	888-432-4300 or 913-262-2868
11. MOCSA	SA	MOCSA	913-642-0233 or 816-531-0233
12. El Centro	DV	Mattie Rhodes Center ¡Si Se Puede!	816-241-3780 (not a crisis line)
13. KCAVP	DV/SA	Kansas City Anti-Violence Project (LGBT services)	816-561-0550
14. Lawrence	SA	The Sexual Trauma and Abuse Care Center	785-843-8985
15. Lawrence	DV	The Willow Domestic Violence Center	800-770-3030 or 785-843-3333
16. Leavenworth	DV/SA	Alliance Against Family Violence	800-644-1441 or 913-682-9131
17. Liberal	DV/SA	LARC/DVS, Inc.	888-417-7273 or 620-624-8818
18. Manhattan	DV/SA	The Crisis Center, Inc.	800-727-2785 or 785-539-2785
19. Mayetta	DV/SA	PBP Nation - Tribal Victims Services Program	866-966-0173 or 785-966-8330
20. Newton	DV/SA	Safehope, Inc.	800-487-0510 or 316-283-0350
21. Pittsburg	DV/SA	Safehouse Crisis Center, Inc.	800-794-9148 or 620-231-8251
22. Salina	DV/SA	Domestic Violence Assoc. of Central Kansas	800-874-1499 or 785-827-5862
23. Topeka	DV/SA	YWCA Center for Safety and Empowerment	888-822-2983 or 785-354-7927
24. Wichita	DV	Catholic Charities Harbor House	866-899-5522 or 316-263-6000
25. Wichita	DV	StepStone	316-265-1611
26. Wichita	SA	Wichita Area Sexual Assault Center	877-927-2248 or 316-263-3002
27. Wichita	DV	Wichita Family Crisis Center	316-267-7233

▲ No accredited services in this area. If you are in need of advocacy services in Atchison, Brown, Nemaha, and Doniphan counties, call the surrounding advocacy programs or the 24/7 Kansas Crisis Hotline at 1-888-363-2287.

* No accredited services in this area. If you are in need of advocacy services in Cowley, Chautauqua, Elk, and Summer counties, call the surrounding advocacy programs or the 24/7 Kansas Crisis Hotline at 1-888-363-2287.

