

Sexual Assault Civil Protection Orders (CPOs) By State

6/2007

Relevant Statute	Civil Definition of Sexual Assault?	Who Qualifies? (Petitioner)	What Must Petitioner Show?	Relief Available (Gun Restraint?)	Notice to Police?	Penalty for Knowing Violation?
<p>Alaska ALASKA STAT. 18.65.850 ET AL</p> <p>NATURE OF PROCEEDING: Civil Protective Order</p> <p>COST: No filing fee</p>	Criminal Code	<p>A person who reasonably believes that the person is a victim of...sexual assault that is not a crime involving domestic violence...</p> <p>A parent or guardian may file a petition on behalf of a minor.</p>	<p>Reasonable belief that the person is a victim of...sexual assault that is not a crime involving domestic violence</p> <p>STANDARD OF PROOF: Preponderance</p>	<p>RELIEF: No contact; stay away from any specified place including the respondent's own residence; other relief as the court determines to be necessary to protect petitioner or other designated household member</p> <p>GUN RESTRAINT? Statute is silent</p>	When a court issues or accepts for filing a protective order . . . , it shall send a copy of the order to the appropriate local law enforcement agency. Each law enforcement agency shall establish procedures to inform peace officers of protective orders.	Misdemeanor punishable by up to one year of incarceration and a fine of up to \$5,000
<p>California CAL. CIV. P. CODE ANN. §527.6</p> <p>NATURE OF PROCEEDING: Civil Harassment Restraining Order</p> <p>COST: No filing fee</p>	Evidence and Penal Codes	A person who has suffered harassment (12 and older)	<p>Reasonable proof of harassment</p> <p>STANDARD OF PROOF: Clear & Convincing</p>	<p>RELIEF: Injunctive</p> <p>GUN RESTRAINT? Yes</p>	Petitioner gives to law enforcement	Misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment
<p>Colorado COLO. REV. STAT. ANN. §13-14-102</p> <p>NATURE OF PROCEEDING: Civil & mandatory criminal process</p> <p>COST: No filing fee</p>	Assaults and threatened bodily harm; domestic abuse; emotional abuse of the elderly or of an at-risk adult; stalking	Person 10 years of age or older	<p>Victim of sexual assault or attempted sexual assault</p> <p>STANDARD OF PROOF: Of the opinion that resp. has committed acts warranting issuance of a CPO, and unless restrained, will continue to do so</p>	<p>RELIEF: No contact; stay away; temporary child placement</p> <p>GUN RESTRAINT? No</p>	Court electronically transfers into central registry	Criminal contempt

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<p>Florida FLA. STAT. ANN. §784.046</p> <p>NATURE OF PROCEEDING: Civil Protective Injunction</p> <p>COST: No filing fee</p>	<p>Criminal Code, and: Any other forcible felony wherein a sexual act is committed or attempted, regardless of whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney.</p>	<p>A person who is the victim of sexual violence, IF That person reports to law enforcement & cooperates in proceedings against perpetrator; OR The perpetrator's prison sentence is set to expire</p> <p>Parent/Legal Guardian of minor who lives at home may petition on their behalf</p>	<p>Shall allege the incidents of sexual violence, including specific facts and circumstances</p> <p>Petitioner genuinely fears repeat violence by the respondent</p> <p>STANDARD OF PROOF: Statute is silent</p>	<p>RELIEF: No acts of violence; such other relief as the court deems necessary for the protection of the petitioner</p> <p>GUN RESTRAINT? Statute is silent</p>	<p>Entered into statewide verification system w/in 24 hours</p>	<p>Arrest, following another act of violence (901.15(6))</p> <p>Civil or criminal contempt proceedings</p>
<p>Illinois 740 CH. 22 ILL.COMP.STAT. ANN. 101 - 302</p> <p>NATURE OF PROCEEDING: Civil No Contact Order</p> <p>COST: No filing fee</p>	<p>Criminal Code</p>	<p>Any person who is a victim of non-consensual sexual penetration, including a single incident of non-consensual sexual conduct or penetration; or by a person on behalf of a minor child or an adult who is a victim of non-consensual sexual penetration but, because of age, disability, health, or inaccessibility, cannot file a petition</p>	<p>Victim of nonconsensual sexual conduct or nonconsensual sexual penetration</p> <p>STANDARD OF PROOF: Preponderance</p>	<p>RELIEF: No physical or nonphysical contact; stay away</p> <p>GUN RESTRAINT? No</p>	<p>All sheriffs shall furnish to the Department of State Police, on the same day as received, in the form and detail the Department requires, copies of any recorded emergency or plenary civil no contact orders issued by the court and transmitted to the sheriff by the clerk of the court</p>	<p>Misdemeanor</p>

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<p>Maine 5 ME. REV. STAT. ANN. §§4651-4659</p> <p>NATURE OF PROCEEDING: Civil Protection from Harassment Order</p> <p>COST: No filing fee</p>	<p>“Harassment” means: Three or more acts of intimidation, confrontation, physical force or the threat of physical force directed against any person that are made with the intention of causing fear, intimidation or damage to property and that do in fact cause fear, intimidation or damage to property;</p> <p>A single act or course of conduct constituting a violation of [the relevant Criminal Code]</p>	<p>A person who has been a victim of harassment may seek relief by filing a sworn complaint in an appropriate court alleging that harassment</p>	<p>Specific allegations and circumstances of sexual assault</p> <p>STANDARD OF PROOF: Preponderance</p>	<p>RELIEF: No contact; no following; stay away; no property damage; payment of Petitioner’s monetary losses that were a direct result of the harassment; payment of court costs</p> <p>GUN RESTRAINT? No</p>	<p>Copy given to local law enforcement</p>	<p>Class D Crime, Civil Contempt</p>
<p>Maryland MD. CTS. AND JUD. P. CODE ANN. §§3-1501 - 1509</p> <p>NATURE OF PROCEEDING: Civil Peace Order</p> <p>COST: Statute is silent</p>	<p>Criminal Code</p>	<p>Victim of rape or sex offense; must file petition within 30 days of the offense</p>	<p>The nature and extent of the act specified for which the relief is being sought, including information known to the petitioner concerning previous harm or injury</p> <p>STANDARD OF PROOF: Clear & Convincing</p>	<p>RELIEF: No contact; stay away; direct either party to obtain professionally supervised counseling; order either party to pay court costs; or other relief as the court deems necessary to protect the Petitioner</p> <p>GUN RESTRAINT? Statute is silent</p>	<p>Statute is silent</p>	<p>Statute is silent</p>

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<p>Minnesota MINN. STAT. ANN. §609.748</p> <p>NATURE OF PROCEEDING: Civil Harassment Restraining Order</p> <p>COST: Fee (~\$250) may be waived. MINN. STAT. ANN. § 609.748, subd. 3a</p>	<p>"Harassment" includes: a single incident of physical or sexual assault or repeated incidents of intrusive or unwanted acts, words, or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target</p>	<p>A person who is a victim of harassment; the parent, guardian, or stepparent of a minor who is a victim of harassment</p>	<p>Specific facts and circumstances from which relief is sought.</p> <p>STANDARD OF PROOF: Reasonable grounds to believe that the respondent has engaged in harassment</p>	<p>RELIEF: No contact, stay away</p> <p>GUN RESTRAINT? Yes</p>	<p>Shall be forwarded by the court administrator within 24 hours to the local law enforcement with jurisdiction over the residence of the applicant. Law enforcement shall make available to other law enforcement through a system for verification, information as to the existence and status of any order</p>	<p>Misdemeanor and/or civil contempt; may also be a gross misdemeanor or felony depending on the circumstances. Minn. Stat. Ann. § 609.748, subd. 6(c) and (d)</p>
<p>North Carolina N.C. GEN. STAT. § 50C-1</p> <p>NATURE OF PROCEEDING: Civil No Contact Order</p> <p>COST: No filing or service fees</p>	<p>Nonconsensual sexual conduct, including single incidences of nonconsensual sexual conduct</p>	<p>Victim of nonconsensual sexual conduct.</p> <p>Victim. -- A person against whom an act of unlawful conduct has been committed by another person not involved in a personal relationship with the person as defined in G.S. 50B-1(b); Non-Consensual -- N.C. Gen. Stat. § 50C-1</p>	<p>The victim has suffered unlawful conduct committed by the respondent</p> <p>STANDARD OF PROOF: Statute is silent</p>	<p>RELIEF: No contact; no violent contact; no nonphysical contact; no following; stay away; other relief as deemed necessary by the court to protect the Petitioner</p> <p>GUN RESTRAINT? Statute is silent</p>	<p>The clerk of court shall deliver on the same day that a civil no-contact order is issued, a certified copy of that order to the sheriff.</p>	<p>Shall be punishable as contempt of court which may result in a fine or imprisonment</p>

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Montana MONT. CODE ANN. §§40-15.102 - 15.303 NATURE OF PROCEEDING: Civil Protective Order COST: None	Criminal Code	Victim of stalking, sexual assault or sexual intercourse without consent or by a parent or legal guardian on behalf of a minor	Petitioner shall file a sworn petition that states that the petitioner is in reasonable apprehension of bodily injury STANDARD OF PROOF: Statute is silent	RELIEF: No further threats or contact; residence exclusion; 1500 ft. stay away at worksite or other specified place GUN RESTRAINT? Yes	The clerk of court, shall, within 24 hours, mail a copy of the order, to the appropriate law enforcement agencies designated, which shall, within 24 hours after receipt of the order, enter the order into the database of the national crime information center	Violation of this order is a criminal offense under 45-5-220 or 45-5-626 and may carry penalties of up to \$10,000 in fines and up to a 5-year jail sentence
Oklahoma OKLA. STATE ANN. TIT. 22 §60.2 NATURE OF PROCEEDING: Civil Protective Order COST: No filing fee	Criminal Code	Victim of domestic abuse, stalking, harassment, rape Any adult or emancipated minor household member on behalf of family or household member who is a minor or incompetent or any minor age 16 or 17	Victim of rape STANDARD OF PROOF: Preponderance	RELIEF: Any terms and conditions that the court reasonably believes are necessary GUN RESTRAINT? Unclear	Petitioner gives copies to law enforcement – law enforcement responsible for notifying other law enforcement which may include entry into National Crime Info Center database	Misdemeanor
South Dakota S.D. CODIFIED LAW §§2219A-8 - 2219A-17 NATURE OF PROCEEDING: Civil Protective Order COST: No filing fee	Criminal Code	Victim of stalking or physical injury as a result of an assault or a crime of violence as defined in criminal code	Petitioner must allege existence of stalking or physical injury stating specific facts and circumstance STANDARD OF PROOF: Preponderance	RELIEF: Restrain party from committing acts of stalking, or physical injury as a result of an assault or a crime of violence as defined in 22-1-2(9) Lasts up to 3 years GUN RESTRAINT? No	Victim gives certified copy to county law enforcement agency. That agency is responsible for other agencies w/in the county to know of the order.	Class 1 misdemeanor or Class 6 Felony if another assault

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<p>Tennessee TENN. CODE ANN. § 36-3-601, ET SEQ.</p> <p>NATURE OF PROCEEDING: Civil Protective Order</p> <p>COST: No filing or service fees</p>	Criminal Code	Any victim who has been subjected to, threatened with, or placed in fear of...sexual assault	<p>The petitioner was subjected to, threatened with, or placed in fear of ...sexual assault</p> <p>STANDARD OF PROOF: Preponderance</p>	<p>RELIEF: No contact; no violent contact; no nonphysical contact; no stalking; possession of residence to Petitioner or directing Respondent to provide suitable housing for Petitioner; excluding Respondent from residence; temporary child custody; temporary spousal support; directing Respondent to obtain counseling.</p> <p>GUN RESTRAINT? No</p>	A copy . . . shall be issued to the petitioner, the respondent, and the local law enforcement agencies having jurisdiction in the area where the petitioner resides. Upon receipt... the local law enforcement agency shall immediately enter such order or dismissal in the Tennessee crime information system and take any necessary action to immediately transmit it to the national crime information center.	Civil or criminal contempt and a civil penalty of \$50.00
<p>Texas TEX. CRIM. P. CODE ANN. §7A.01-7A.06</p> <p>NATURE OF PROCEEDING: Civil Protective Order (prosecutor may petition on behalf of victim)</p> <p>COST: Statute is silent</p>	Penal Code	Person who is a victim of a sex offense as defined in criminal code	<p>Victim of sexual assault and subject of threat that reasonably places petitioner in fear of further harm from the respondent</p> <p>STANDARD OF PROOF: Reasonable grounds</p>	<p>RELIEF: No communication directly or indirectly w/ petitioner and family or household members; stay away from specific locations and minimum distances; other orders as court deems necessary</p> <p>GUN RESTRAINT? Yes, unless offender is a peace officer actively engaged in employment as a sworn full-time paid employee of a state agency</p>	Statute is silent	Contempt, fine or jail

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<p>Vermont 12 V.S.A. §5131, ET AL</p> <p>NATURE OF PROCEEDING: Civil Protective Order</p> <p>COST: No filing fee</p>	Criminal Code	A person, other than a family or household member may seek an order against stalking or sexual assault on behalf of him or herself or his or her children by filing a complaint	<p>Victim of the offense of lewd and lascivious conduct with a child...sexual assault... or aggravated sexual assault...</p> <p>STANDARD OF PROOF: Preponderance</p>	<p>RELIEF: Stay away; no nonphysical contact; other orders the court deems necessary to protect Petitioner or other parties involved</p> <p>GUN RESTRAINT? Statute is silent</p>	Any court in this state that issues a notice against a stalking or sexual assault order under this chapter shall transmit a copy of the order to the department of public safety's protection order database.	A fine of \$1,000.00 or imprisonment for six months, or both
<p>Washington 7.90 RCW ET AL; SEXUAL ASSAULT PROTECTION ORDER ACT</p> <p>NATURE OF PROCEEDING: Civil Protective Order</p> <p>COST: No fees</p>	For detailed civil definition of "Sexual conduct" see Wash. Rev. Code § 7.90.010.	<p>A person who is a victim of nonconsensual sexual conduct or non-consensual sexual penetration, including a single incident</p> <p>On behalf of a minor child or vulnerable adult who is a victim of non-consensual sexual conduct or non-consensual sexual penetration</p>	<p>Victim of non-consensual sexual conduct or non-consensual sexual penetration committed by the respondent.</p> <p>STANDARD OF PROOF: Preponderance</p>	<p>RELIEF: No contact; no nonphysical contact; stay away; any other relief as the court deems necessary to protect Petitioner.</p> <p>GUN RESTRAINT? Statute is silent</p>	A copy shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall immediately enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants.	A violation of the restraint provisions or provisions excluding the person from a residence, workplace, school, or day care or prohibiting a person from knowingly coming within or remaining within a specified distance of a location is a <i>gross misdemeanor</i> . Any assault that is a violation of an order is a <i>class C felony</i> , or is a class C felony if the offender has at least <i>two previous convictions</i> for violating the provisions of an order

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<p>Wisconsin W.S.A. 813.125</p> <p>NATURE OF PROCEEDING: Civil Harassment Restraining Order</p> <p>COST: Statute is silent</p>	<p>"Harassment" means any of the following: Striking, shoving, kicking or otherwise subjecting another person to physical contact; engaging in an act that would constitute abuse, sexual assault or stalking under the Criminal Code; or attempting or threatening to do the same</p>	<p>Victim of harassment, including sexual assault</p>	<p>That the respondent has engaged in harassment with intent to harass or intimidate the petitioner</p> <p>STANDARD OF PROOF: The judge or circuit court commissioner finds reasonable grounds to believe that the respondent has engaged in harassment</p>	<p>RELIEF: No harassment; stay away from petitioner's residence or any premises temporarily occupied by the petitioner; or any combination of these remedies requested in the petition</p> <p>GUN RESTRAINT? Yes</p>	<p>The clerk of the circuit court shall send a copy of the order or injunction, or of the order extending, modifying or vacating an order or injunction, to the sheriff or to any local law enforcement agency which is the central repository for orders and injunctions and which has jurisdiction over the petitioner's premises. The sheriff or other appropriate local law enforcement agency ...shall enter the information received ... into the transaction information for management of enforcement system no later than 24 hours after receiving the information and shall make available to other law enforcement agencies, through a verification system, information on the existence and status of any order or injunction.</p>	<p>Fine not more than \$1,000 or imprisoned not more than 90 days or both</p>

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