

See our other family violence materials (available in print and online): *Family Violence, Peace Bonds and Family Violence, Being a Witness in a Family Violence Case, Elder Abuse, Child Discipline, and Emergency Protection Orders.*

Resources

You can get immediate medical attention through a hospital emergency department or from your doctor. At the hospital, a Sexual Assault Nurse Examiner (SANE) can usually examine you. This is a nurse with special training to support you, collect evidence, and keep the evidence for six months.

You can find additional information about the SANE program by calling the Avalon SANE Response Line at (902) 425-0122.

Sexual Assault Services:

Halifax: Avalon Centre – Crisis line 405-0122

New Glasgow: Pictou County Women's Centre – 902-755-4647

Victims' Services support victims of crime by providing information, support, and assistance as a case moves through the criminal justice system.

Head office: 1-888-470-0773, Dartmouth: 902-424-3307

Kentville: 1-800-565-1805, New Glasgow: 1-800-565-7912

Sydney: 1-800-565-0071

Sexual Assault

WHAT YOU NEED TO KNOW



Sexual Assault is a form of assault that involves some form of sexual contact without your consent.

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5523B Young Street,

Halifax, Nova Scotia, B3K 1Z7

www.legalinfo.org

Tel: Administration, publications and
Speakers' Bureau 902-454-2198

Tel: Legal Information Line and

Lawyer Referral Service 455-3135 or 1-
800-665-9779

Tel: Dial-a-law 1-902-420-1888

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Assault is any intentional use of force against you without consent. Touching, slapping, kicking, and punching are all examples of assault. An attempt or threaten to use force may also be an assault in some situations.

Sexual Assault is a form of assault that involves some form of sexual contact, such as touching private areas of your body, kissing, fondling, or sexual intercourse without your consent.

This brochure provides general information only. It is not meant to replace legal advice from a lawyer.

What is Sexual Assault?

Simple assault involves things like having private areas of your body touched, being kissed, or becoming involved in sexual intercourse or oral sex without your consent.

Sexual assault causing bodily harm involves sexual assaults where you are injured.

Sexual assault with a weapon involves the use of a weapon, or a threat to use a weapon during sexual assault.

Aggravated sexual assault involves life-threatening sexual assaults, including those where you are wounded, maimed, disfigured, or your life is put in danger.

The penalties and procedures for dealing with assault depend on the type of assault and the amount of violence used.

Can a spouse or partner be charged with sexually assaulting me?

Yes. The police can charge your spouse or partner with sexually assaulting you.

There does not have to be a witness for a judge to convict a person of sexual assault.

Can I drop the charges?

If the police have laid charges against your partner, you cannot withdraw them. If you are afraid or do not want to give evidence, tell the Crown Attorney as soon as possible.

What is consent?

Consent is the voluntary agreement to take part in the activity. There is no consent if,

- you did not agree
- you were incapable of consenting. (For example, you were passed out, drugged, or too drunk to consent)
- you were persuaded to take part in the sexual activity because of a person's position of trust, power, or authority over you.
- you indicated by word or action that you did not want to take part in the sexual activity. For example, you might have said no or pushed your spouse or partner away.
- you agreed to the activity but later indicated that you no longer wished to continue with it.

If your spouse or partner mistakenly believed that you consented even if you did not, the judge may not convict him or her. It is up to the judge (or jury) to decide whether your spouse's mistake is reasonable and honest.

What happens when I report a sexual assault?

The police will take a statement from you. They may collect evidence. The police may want a medical record, and to photograph any injuries. The police will likely question your spouse or partner and place him or her under arrest. The police will charge your spouse or partner, if they believe there is enough evidence of the sexual assault. Once you report the assault, contact Victims' Services, A Sexual Assault Centre, a Transition home, or a Women's Centre for support. Key numbers are available in the Resources section of this pamphlet.

The police will probably release the accused from jail before the trial after getting him or her to sign an "undertaking" or "recognizance." Usually, the accused must agree not to contact you, or attempt to contact you. If you are afraid that the accused will contact or harm you before the trial, talk to the Crown Attorney (the lawyer that will make the case against the accused).

Will I have to go to Court?

You will probably have to go to court, unless your spouse or partner pleads guilty. If someone serves you with a subpoena, you have to go to court and testify or the judge may issue a warrant for your arrest. The judicial system usually requires you to give evidence in court in both a preliminary hearing (if there is one) and a trial. For more information on being a witness, visit www.legalinfo.org, or look for LISNS' Being a Witness pamphlet.



Will my sexual history be discussed in court?

To have your sexual history submitted in court, the accused must apply in writing. The judge then holds a two-stage hearing to decide, and must provide written reasons for his or her ruling. The media cannot publish any information from these hearings without the judge's permission.

For the court to admit your sexual history, it must cover specific events, be relevant to an issue at the trial, or have significant value. Nobody can bring up your sexual history in order to suggest that you are more likely to have consented to the sexual activity on which the charge is based, or suggest that you are less worthy of belief.

When deciding whether to admit your sexual history, the judge must consider the rights of the accused to defend him or herself, the potential prejudice that this information might raise, as well as your right to personal dignity and privacy.